



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 10]

नई दिल्ली, मार्च 5—मार्च 11, 2017, शनिवार/फाल्गुन 14—फाल्गुन 20, 1938

No. 10]

NEW DELHI, MARCH 5—MARCH 11, 2017, SATURDAY/PHALGUNA 14—PHALGUNA 20, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India

(Other than the Ministry of Defence)

वस्त्र मंत्रालय

नई दिल्ली, 23 फरवरी, 2017

का.आ. 575.—केन्द्रीय सरकार (संघ के शासकीय प्रयोजनों के लिए प्रयोग) राजभाषा नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, वस्त्र मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालय को जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

राष्ट्रीय पटसन बोर्ड,

3ए व 3बी पार्क प्लाजा,

71-पार्क स्ट्रीट, कोलकाता-700016 (पश्चिम बंगाल)

[सं. ई-11016/1//2015- हिंदी]

पुनीत अग्रवाल, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 23rd February, 2017

S.O. 575.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office of the Ministry of Textiles, more than 80% staff whereof have acquired the working knowledge of Hindi :

National Jute Board,
3A & 3B Park Plaza,
71-Park Street,
Kolkata-700016 (West Bengal)

[No. E-11016/1/2015-Hindi]

PUNEET AGRAWAL, Jt. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय**(स्वास्थ्य और परिवार कल्याण विभाग)**

नई दिल्ली, 28 फरवरी, 2017

का.आ. 576.—जबकि भारतीय आयुर्विज्ञान परिषद (संशोधन) अध्यादेश, 2013 की धारा 3क की उप-धारा (I) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय आयुर्विज्ञान अनुसंधान परिषद का 06 नवम्बर, 2013 को पुनर्गठन किया गया था;

और जबकि भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 की धारा 102) की धारा 3 की उप-धारा (1) (ख) के प्रावधानों के अनुसरण में डॉ. अरूण कुमार अग्रवाल को दिनांक 20.03.2015 से बी.एन. मंडल विश्वविद्यालय, मधेपुरा, बिहार का प्रतिनिधित्व करते हुए भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में मनोनीत किया गया था;

और जबकि पटना के माननीय उच्च न्यायालय ने सीडब्ल्यूजेसी सं. 5291/2016, डॉ. बसंत कुमार बनाम बिहार राज्य एवं अन्य में अपने दिनांक 1.12.2016 के आदेश के तहत डॉ. अरूण कुमार अग्रवाल के निर्वाचन को अवैध घोषित किया था।

अतः, अब बी.एन. मंडल विश्वविद्यालय, मधेपुरा, बिहार का प्रतिनिधित्व करने वाले डॉ. अरूण कुमार अग्रवाल को तत्काल प्रभाव से भारतीय आयुर्विज्ञान परिषद की सदस्यता समाप्त हो गई मानी जाएगी।

[सं. वी-11013/02/2015-एमईपी (भाग)]

अमित बिस्वास, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE**(Department of Health and Family Welfare)**New Delhi, the 28th February, 2017

S.O. 576.—Whereas on 6th November, 2013, the Medical Council of India was re-constituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

And whereas in pursuance of the provision of sub-section (1)(b) of Section 3 of the Indian Medical Act, 1956 (102 of 1956) Dr. Arun Kumar Agrawal was nominated as a member of the Medical Council of India representing B.N. Mandal University, Madhepura, Bihar with effect from 20.03.2015;

And whereas the Hon'ble High Court of Patna vide its order dated 01.12.2016 in CWJC No. 5291/2016, Dr. Basant Singh versus the State of Bihar and others declared the election of Dr. Arun Kumar Agrawal null and void.

Now, therefore, Dr. Arun Kumar Agrawal shall be deemed to have ceased to be a member of the Medical Council of India representing B.N. Mandal University, Madhepura, Bihar with immediate effect.

[No. V-11013/02/2015-MEP(Pt.)]

AMIT BISWAS, Under Secy.

नई दिल्ली, 28 फरवरी, 2017

का.आ. 577.—जबकि भारतीय आयुर्विज्ञान परिषद (संशोधन) अध्यादेश, 2013 की धारा 3क की उप-धारा (I) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय आयुर्विज्ञान अनुसंधान परिषद का 06 नवंबर, 2013 को पुनर्गठन किया गया था;

और जबकि केंद्र सरकार ने भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 की धारा 102) की धारा 3 की उप-धारा (I) के खंड (ग) के अनुसरण में, पंजीकृत चिकित्सा स्नातक निर्वाचन क्षेत्र से निर्वाचन आयोजित किया है तथा निम्नलिखित को इस अधिसूचना के जारी होने की तारीख से पांच वर्षों के लिए भारतीय आयुर्विज्ञान परिषद के सदस्य हेतु निर्वाचित किया गया है।

अब अतः उपर्युक्त अधिनियम की धारा (3) की उप-धारा (1) के प्रावधानों के अनुसरण में केंद्र सरकार स्वास्थ्य मंत्रालय की दिनांक 09 जनवरी, 1960 के तत्कालीन सा.आ. सं. 138 में भारत सरकार की अधिसूचना में एतद्वारा निम्नलिखित संशोधन करती है अर्थात्:-

स्वास्थ्य और परिवार कल्याण मंत्रालय के दिनांक 06 नवंबर, 2013 के सा.आ.सं. 3324 (अ) में भारत सरकार की अधिसूचना में अंतिम प्रविष्टि तथा उससे संबंधित प्रविष्टि के उपरांत निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात् :-

क्र. सं.	पंजीकृत चिकित्सा स्नातक निर्वाचन क्षेत्र का नाम	निर्वाचित सदस्य का विवरण	निर्वाचन की पद्धति
18	त्रिपुरा	डा. अभिजीत दत्ता, एसोसिएट प्रोफेसर, विकृति विज्ञान विभाग, अगरतला सरकारी चिकित्सा कालेज एवं जीबीपी अस्पताल, अगरतला	निर्वाचित

[सं. वी-11013/01/2015-एमईपी (भाग-I)]

अमित बिस्वास, अवर सचिव

New Delhi, the 28th February, 2017

S.O. 577.—Whereas on 06th November, 2013, the Medical Council of India was re-constituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

And, whereas the Central Government, in pursuance of Clause (c) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) has conducted the election from the Registered Medical Graduate Constituency and the following has been elected to be a member of the Medical Council of India for five years with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following amendment in the Notification of the Government of India in the then Ministry of Health number S.O. 138 dated 9th January, 1960, namely:-

In the notification of the Government of India in the Ministry of Health & Family Welfare number S.O. 3324(E) dated 06th November, 2013, after the last entry and entry relating thereto, the following shall be inserted, namely :—

S. No.	Name of the Registered Medical Graduate Constituency	Details of the Elected Member	Mode of Election
18.	Tripura	Dr. Abhijit Datta, Associate Professor, Department of Pathology, Agartala Government Medical College & GBP Hospital, Agartala	Elected

[No. V-11013/01/2015-MEP (Pt. 1)]

AMIT BISWAS, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 3 मार्च, 2017

का.आ. 578.—राजीव गांधी पेट्रोलियम प्रौद्योगिकी संस्थान (आरजीआईपीटी) अधिनियम, 2007 के नियम 5(1) के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा निम्नलिखित व्यक्तियों को आरजीआईपीटी के पुनर्गठित अधिशासी मंडल में दिनांक 20.02.2017 से तीन वर्ष की अवधि के लिए या अगले आदेश होने तक, जो भी पहले हो, सदस्य नियुक्त करती है :-

- (i) श्री महेश बी. लाल, पूर्व अध्यक्ष और प्रबंध निदेशक, एचपीसीएल
- (ii) श्री प्रभात सिंह, सीईओ और प्रबंध निदेशक, पेट्रोनेट एलएनजी
- (iii) प्रो. प्रीतमसिंह, पूर्व निदेशक, आईआईएम लखनऊ और एमडीआई गुरुग्राम
- (iv) डॉ. प्रदीप कुमार सिंह, निदेशक, केंद्रीय खनन और ईंधन अनुसंधान संस्थान, धनबाद
- (v) प्रो. डी. रामाकृष्णन, पृथ्वी विज्ञान विभाग, आईआईटी मुंबई ।

[फा. सं. जे-25021/13//2014-जन. (पार्ट)]

राज किशोर, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 3rd March, 2017

S.O. 578.—In exercise of the powers conferred under Rule 5(1) of the Rajiv Gandhi Institute of Petroleum Technology (RGIPT) Act, 2007, the Central Government hereby appoints the following persons as Members on the reconstituted Board of Governors of RGIPT with effect from 20.02.2017 for a period of three years or until further orders, whichever is earlier :—

- (i) Shri Mahesh B. Lal, Former C&MD, HPCL
- (ii) Shri Prabhat Singh, CEO&MD, Petronet LNG
- (iii) Prof. Pritam Singh, Former Director, IIM Lucknow and MDI Gurugram
- (iv) Dr. Pradip Kumar Singh, Director, Central Institute of Mining & Fuel Research, Dhanbad
- (v) Prof. D. Ramakrishnan, Department of Earth Sciences, IIT Bombay

[F. No. J-25021/13/2014-Gen. (Pt.)]

RAJ KISHORE, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 3 मार्च, 2017

का.आ. 579.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड के चेन्नै संपर्क व निरीक्षण कार्यालय, सं. 2 (पुराना सं. 16), पहली गली, भारती नगर, नार्थ उस्मान रोड, टी. नगर, चेन्नै-600017, जिसके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है ।

[सं. 11017/10/2013- हिंदी]

अंजू भल्ला, संयुक्त सचिव (प्रशा.)

MINISTRY OF POWER

New Delhi, the 3rd March, 2017

S.O. 579.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notify the Chennai Liaison & Inspection Office, No. 2 (Old No. 16) 1st Street, Bharati Nagar, North Usman Road, T. Nagar, Chennai-600017 of the Power Grid Corporation of India Ltd. under the administrative control of Ministry of Power, where 80% of the staff have acquired the working knowledge of Hindi.

[No. 11017/10/2013-Hindi]

ANJU BHALLA, Jt. Secy. (Adm.)

उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय**(उपभोक्ता मामले विभाग)**

नई दिल्ली, 22 फरवरी, 2017

का.आ. 580.—भारत के राजपत्र भाग II, खण्ड 3, उपखंड (ii) में प्रकाशित, उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) भारत सरकार की अधिसूचना -

- (i) का.आ. सं0 3289 दिनांक 25 दिसम्बर, 2004 के दूसरे पैरा में “शेखर ब्रदर्स” शब्दों के स्थान पर “शेखर इंटरनेशनल” शब्द प्रतिस्थापित किए जाएंगे।
- (ii) का.आ. सं0 81 दिनांक 08 जनवरी, 2005 के दूसरे पैरा में “शेखर ब्रदर्स” शब्दों के स्थान पर “शेखर इंटरनेशनल” शब्द प्रतिस्थापित किए जाएंगे।
- (iii) का.आ. सं0 2257 दिनांक 9 अगस्त, 2002 के दूसरे पैरा में “शेखर ब्रदर्स” शब्दों के स्थान पर “शेखर इंटरनेशनल” शब्द प्रतिस्थापित किए जाएंगे।
- (iv) का.आ. सं0 436 दिनांक 13 फरवरी, 2010 के दूसरे पैरा में “शेखर ब्रदर्स” शब्दों के स्थान पर “शेखर इंटरनेशनल” शब्द प्रतिस्थापित किए जाएंगे।
- (v) का.आ. सं0 1472 दिनांक 15 अप्रैल, 2006 के दूसरे पैरा में “शेखर ब्रदर्स” शब्दों के स्थान पर “शेखर इंटरनेशनल” शब्द प्रतिस्थापित किए जाएंगे।
- (vi) का.आ. सं0 1473 दिनांक 15 अप्रैल, 2006 के दूसरे पैरा में “शेखर ब्रदर्स” शब्दों के स्थान पर “शेखर इंटरनेशनल” शब्द प्रतिस्थापित किए जाएंगे।

[फा. सं. डब्ल्यू.एम-19(86)/2014]

बी. एन. दीक्षित, निदेशक (विधिक माप विज्ञान)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)**

New Delhi, the 22nd February, 2017

S.O. 580.—In the notification of the Government of India in the Ministry of Consumer Affairs, Food and Public Distribution, (Department of Consumer Affairs) published in the Gazette of India, Part II, Section 3, Sub-section (ii)-

- (i) S. O. No. 3289 dated 25th December, 2004, in second para the words “Shekhar International” shall be substituted for the words “Shekhar Brothers”.
- (ii) S. O. No. 81 dated 8th January, 2005, in second para the words “Shekhar International” shall be substituted for the words “Shekhar Brother”.
- (iii) S. O. No. 2257 dated 9th August, 2002, in second para the words “Shekhar International” shall be substituted for the words “Shekhar Brothers”.

- (iv) S. O. No. 436 dated 13th February, 2010, in second para the words “Shekhar International” shall be substituted for the words “Shekhar Brothers”.
- (v) S. O. No. 1472 dated 15th April, 2006, in second para the words “Shekhar International” shall be substituted for the words “Shekhar Brothers”.
- (vi) S. O. No. 1473 dated 15th April, 2006, in second para the words “Shekhar International” shall be substituted for the words “Shekhar Brothers”.

[F. No. WM-19(86)/2014]

B. N. DIXIT, Director (Legal Metrology)

नई दिल्ली, 22 फरवरी, 2017

का.आ. 581.—भारत के राजपत्र भाग II, खण्ड 3, उपखंड (ii) में प्रकाशित, उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) भारत सरकार की अधिसूचना –

- (i) का.आ. संख्या 1262 दिनांक 7 जून, 2008 के दूसरे पैरा में “इंडोसॉ” शब्द के स्थान पर “यूरोटेक” शब्द प्रतिस्थापित किए जाएंगे।
- (ii) का.आ. संख्या 1280 दिनांक 16 मई, 2009 के दूसरे पैरा में “मैसर्स कुमार सत्यम” शब्दों के स्थान पर “मैसर्स कुमार सिस्टम” शब्द प्रतिस्थापित किए जाएंगे।
- (iii) का.आ. संख्या 1281 दिनांक 16 मई, 2009 के दूसरे पैरा में “मैसर्स कुमार सत्यम” शब्दों के स्थान पर “मैसर्स कुमार सिस्टम” शब्द प्रतिस्थापित किए जाएंगे।
- (iv) का.आ. संख्या 1281 दिनांक 16 मई, 2009 के तीसरे पैरा में “कम से कम 10 किलोग्राम की क्षमता। वेरिफिकेशन स्केल इंटरवल (ई) 1 किलोग्राम है” शब्दों के स्थान पर “कम से कम 200 किलोग्राम की क्षमता। वेरिफिकेशन स्केल इंटरवल (ई) 10 किलोग्राम है” शब्द प्रतिस्थापित किए जाएंगे।
- (v) का.आ. संख्या 1282 दिनांक 16 मई, 2009 के दूसरे पैरा में “मैसर्स कुमार सत्यम” शब्दों के स्थान पर “मैसर्स कुमार सिस्टम” शब्द प्रतिस्थापित किए जाएंगे।

[फा.सं. डब्ल्यू.एम-19(77)/2016]

बी. एन. दीक्षित, निदेशक (विधिक माप विज्ञान)

New Delhi, the 22nd February, 2017

S.O. 581.—In the notification of the Government of India in the Ministry of Consumer Affairs, Food and Public Distribution, (Department of Consumer Affairs) published in the Gazette of India, Part II, Section 3, Sub-section (ii)-

- (i) S. O. No. 1262 dated 7th June, 2008, in second para the words “EUROTECH” shall be substituted for the words “INDOSAW”.
- (ii) S. O. No. 1280 dated 16th May, 2009, in second para the words “M/s Kumar System” shall be substituted for the words “M/s Kumar Satyam”.
- (iii) S. O. No. 1281 dated 16th May, 2009, in second para the words “M/s Kumar System” shall be substituted for the words “M/s Kumar Satyam”.
- (iv) S. O. No. 1281 dated 16th May, 2009, in third para the words “minimum capacity of 200kg. The verification scale interval (e) is 10kg” shall be substituted for the words “minimum capacity of 10kg. The verification scale interval (e) is 1kg”
- (v) S. O. No. 1282 dated 16th May, 2009, in second para the words “M/s Kumar System” shall be substituted for the words “M/s Kumar Satyam”.

[F. No. WM-19(77)/2016]

B. N. DIXIT, Director (Legal Metrology)

नई दिल्ली, 22 फरवरी, 2017

का.आ. 582.— भारत के राजपत्र भाग II, खण्ड 3, उपखंड (ii) में प्रकाशित, उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) भारत सरकार की अधिसूचना -

- (क) का.आ. संख्या 3917 दिनांक 29 अक्टूबर, 2005 के दूसरे पैरा में “मैसर्स जे0 पारिख एण्ड सन्स, बी-43, त्रिथभूमि अपार्टमेंट, नर्सरी के सामने, लो गार्डन के निकट, एलिसब्रिज, अहमदाबाद-380006” शब्दों के स्थान पर “मैसर्स जे0 पारिख एण्ड सन्स, 1, विनोबानगर, पंचशील बस स्टॉप के निकट, गार्डन रोड, उस्मानपुरा, अहमदाबाद-14, गुजरात” शब्द प्रतिस्थापित किए जाएंगे।
- (ख) का.आ. संख्या 3918 दिनांक 29 अक्टूबर, 2005 के दूसरे पैरा में “मैसर्स जे0 पारिख एण्ड सन्स, बी-43, त्रिथभूमि अपार्टमेंट, नर्सरी के सामने, लो गार्डन के निकट, एलिसब्रिज, अहमदाबाद-380006” शब्दों के स्थान पर “मैसर्स जे0 पारिख एण्ड सन्स, 1, विनोबानगर, पंचशील बस स्टॉप के निकट, गार्डन रोड, उस्मानपुरा, अहमदाबाद-14, गुजरात” शब्द प्रतिस्थापित किए जाएंगे।
- (ग) का.आ. संख्या 3919 दिनांक 29 अक्टूबर, 2005 के दूसरे पैरा में “मैसर्स जे0 पारिख एण्ड सन्स, बी-43, त्रिथभूमि अपार्टमेंट, नर्सरी के सामने, लो गार्डन के निकट, एलिसब्रिज, अहमदाबाद-380006” शब्दों के स्थान पर “मैसर्स जे0 पारिख एण्ड सन्स, 1, विनोबानगर, पंचशील बस स्टॉप के निकट, गार्डन रोड, उस्मानपुरा, अहमदाबाद-14, गुजरात” शब्द प्रतिस्थापित किए जाएंगे।
- (घ) का.आ. संख्या 3920 दिनांक 29 अक्टूबर, 2005 के दूसरे पैरा में “मैसर्स जे0 पारिख एण्ड सन्स, बी-43, त्रिथभूमि अपार्टमेंट, नर्सरी के सामने, लो गार्डन के निकट, एलिसब्रिज, अहमदाबाद-380006” शब्दों के स्थान पर “मैसर्स जे0 पारिख एण्ड सन्स, 1, विनोबानगर, पंचशील बस स्टॉप के निकट, गार्डन रोड, उस्मानपुरा, अहमदाबाद-14, गुजरात” शब्द प्रतिस्थापित किए जाएंगे।

[फा.सं. डब्ल्यू.एम-19(76)/2015]

बी.एन. दीक्षित, निदेशक (विधिक माप विज्ञान)

New Delhi, the 22nd February, 2017

S.O. 582.—In the notification of the Government of India in the Ministry of Consumer Affairs, Food and Public Distribution, (Department of Consumer Affairs) published in the Gazette of India, Part II, Section 3, Sub-section (ii)-

- (a) S. O. No. 3917 dated 29th October, 2005, in second para the words “M/s J. Parikh & Sons, 1, Vinobanagar, Nr. Panchshil Bus-Stop, Garden Road, Usmanpura, Ahmedabad-14, Gujarat” shall be substituted for the words “M/s J. Parikh & Sons., B-43, Trithbhoomi Apartment, Opp. Nursery, Near Low Garden, Ellisbridge, Ahmedabad-380006”.
- (b) S. O. No. 3918 dated 29th October, 2005, in second para the words “M/s J. Parikh & Sons, 1, Vinobanagar, Nr. Panchshil Bus-Stop, Garden Road, Usmanpura, Ahmedabad-14, Gujarat” shall be substituted for the words “M/s J. Parikh & Sons., B-43, Trithbhoomi Apartment, Opp. Nursery, Near Low Garden, Ellisbridge, Ahmedabad-380006”.
- (c) S. O. No. 3919 dated 29th October, 2005, in second para the words “M/s J. Parikh & Sons, 1, Vinobanagar, Nr. Panchshil Bus-Stop, Garden Road, Usmanpura, Ahmedabad-14, Gujarat” shall be substituted for the words “M/s J. Parikh & Sons., B-43, Trithbhoomi Apartment, Opp. Nursery, Near Low Garden, Ellisbridge, Ahmedabad-380006”.
- (d) S. O. No. 3920 dated 29th October, 2005, in second para the words “M/s J. Parikh & Sons, 1, Vinobanagar, Nr. Panchshil Bus-Stop, Garden Road, Usmanpura, Ahmedabad-14, Gujarat” shall be substituted for the words “M/s J. Parikh & Sons., B-43, Trithbhoomi Apartment, Opp. Nursery, Near Low Garden, Ellisbridge, Ahmedabad-380006”.

[F. No. WM-19(76)/2015]

B. N. DIXIT, Director (Legal Metrology)

नई दिल्ली, 22 फरवरी, 2017

का.आ. 583.—भारत के राजपत्र भाग II, खण्ड 3, उपखंड (ii) में प्रकाशित, उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) भारत सरकार की अधिसूचना -

- (क) का.आ. संख्या 2861 दिनांक 29 जुलाई, 2006 के दूसरे पैरा में “मैसर्स एम0जी0 इलैक्ट्रॉनिक्स एण्ड सिस्टम, 65-बी, डी0डी0ए0 फ्लैट्स, मानसरोवर पार्क, शाहदरा, दिल्ली” शब्दों के स्थान पर “मैसर्स एम0जी0 इलैक्ट्रॉनिक्स एण्ड सिस्टम, प्लॉट नं0 42, खसरा सं0 292, ग्राम मोखमपुर, दैनिक जागरण कार्यालय के पीछे, दिल्ली रोड, मेरठ-250002, उत्तर प्रदेश” शब्द प्रतिस्थापित किए जाएंगे।
- (ख) का.आ. संख्या 2860 दिनांक 29 जुलाई, 2006 के दूसरे पैरा में “मैसर्स एम0जी0 इलैक्ट्रॉनिक्स एण्ड सिस्टम, 65-बी, डी0डी0ए0 फ्लैट्स, मानसरोवर पार्क, शाहदरा, दिल्ली” शब्दों के स्थान पर “मैसर्स एम0जी0 इलैक्ट्रॉनिक्स एण्ड सिस्टम, प्लॉट नं0 42, खसरा सं0 292, ग्राम मोखमपुर, दैनिक जागरण कार्यालय के पीछे, दिल्ली रोड, मेरठ-250002, उत्तर प्रदेश” शब्द प्रतिस्थापित किए जाएंगे।
- (ग) का.आ. संख्या 4018 दिनांक 5 नवम्बर, 2005 के दूसरे पैरा में “मैसर्स एम0जी0 इलैक्ट्रॉनिक्स एण्ड सिस्टम, 65-बी, डी0डी0ए0 फ्लैट्स, मानसरोवर पार्क, शाहदरा, दिल्ली” शब्दों के स्थान पर “मैसर्स एम0जी0 इलैक्ट्रॉनिक्स एण्ड सिस्टम, प्लॉट नं0 42, खसरा सं0 292, ग्राम मोखमपुर, दैनिक जागरण कार्यालय के पीछे, दिल्ली रोड, मेरठ-250002, उत्तर प्रदेश” शब्द प्रतिस्थापित किए जाएंगे।
- (घ) का.आ. संख्या 4019 दिनांक 5 नवम्बर, 2005 के दूसरे पैरा में “मैसर्स एम0जी0 इलैक्ट्रॉनिक्स एण्ड सिस्टम, 65-बी, डी0डी0ए0 फ्लैट्स, मानसरोवर पार्क, शाहदरा, दिल्ली” शब्दों के स्थान पर “मैसर्स एम0जी0 इलैक्ट्रॉनिक्स एण्ड सिस्टम, प्लॉट नं0 42, खसरा सं0 292, ग्राम मोखमपुर, दैनिक जागरण कार्यालय के पीछे, दिल्ली रोड, मेरठ-250002, उत्तर प्रदेश” शब्द प्रतिस्थापित किए जाएंगे।

[फा.सं. डब्ल्यू.एम-19(76)/2015]

बी. एन. दीक्षित, निदेशक (विधिक माप विज्ञान)

New Delhi, the 22nd February, 2017

S.O. 583.—In the notification of the Government of India in the Ministry of Consumer Affairs, Food and Public Distribution, (Department of Consumer Affairs) published in the Gazette of India, Part II, Section 3, Sub-section (ii)-

- (a) S. O. No. 2861 dated 29th July, 2006, in second para the words “M/s M. G. Electronics & System, Plot No. 42, Khasra No. 292, Village Mokhampur, Behind Dainik Jagran Office, Delhi Road, Merrut-250002, Uttar Pradesh” shall be substituted for the words “M/s M. G. Electronics & System, 65-B, DDA Flats, Mansarovar Park, Shahdara, Delhi”.
- (b) S. O. No. 2860 dated 29th July, 2006, in second para the words “M/s M. G. Electronics & System, Plot No. 42, Khasra No. 292, Village Mokhampur, Behind Dainik Jagran Office, Delhi Road, Merrut-250002, Uttar Pradesh” shall be substituted for the words “M/s M. G. Electronics & System, 65-B, DDA Flats, Mansarovar Park, Shahdara, Delhi”.
- (c) S. O. No. 4018 dated 5th November, 2005, in second para the words “M/s M. G. Electronics & System, Plot No. 42, Khasra No. 292, Village Mokhampur, Behind Dainik Jagran Office, Delhi Road, Merrut-250002, Uttar Pradesh” shall be substituted for the words “M/s M. G. Electronics & System, 65-B, DDA Flats, Mansarovar Park, Shahdara, Delhi”.
- (d) S. O. No. 4019 dated 5th November, 2005, in second para the words “M/s M. G. Electronics & System, Plot No. 42, Khasra No. 292, Village Mokhampur, Behind Dainik Jagran Office, Delhi Road, Merrut-250002, Uttar Pradesh” shall be substituted for the words “M/s M. G. Electronics & System, 65-B, DDA Flats, Mansarovar Park, Shahdara, Delhi”.

[F. No. WM-19(76)/2015]

B. N. DIXIT, Director (Legal Metrology)

नई दिल्ली, 22 फरवरी, 2017

का.आ. 584.—भारत के राजपत्र भाग II, खण्ड 3, उपखंड (ii) में प्रकाशित, उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) भारत सरकार की अधिसूचना –

- (क) का.आ. संख्या 1533 दिनांक 5 मई, 2012 के दूसरे पैरा में “मैसर्स वारादे ऑटोमेशन सॉल्यूशन प्राइवेट लिमिटेड” शब्दों के स्थान पर “मैसर्स वारादे पैकटेक प्रा0 लिमिटेड” शब्द प्रतिस्थापित किए जाएंगे।
- (ख) का.आ. संख्या 3356 दिनांक 26 नवम्बर, 2011 के दूसरे पैरा में “मैसर्स वारादे ऑटोमेशन सॉल्यूशन प्राइवेट लिमिटेड” शब्दों के स्थान पर “मैसर्स वारादे पैकटेक प्रा0 लिमिटेड” शब्द प्रतिस्थापित किए जाएंगे।

[फा.सं. डब्ल्यू.एम-19(76)/2015]

बी. एन. दीक्षित, निदेशक (विधिक माप विज्ञान)

New Delhi, the 22nd February, 2017

S.O. 584.—In the notification of the Government of India in the Ministry of Consumer Affairs, Food and Public Distribution, (Department of Consumer Affairs) published in the Gazette of India, Part II, Section 3, Sub-section (ii)-

- (a) S. O. No. 1533 dated 5th May, 2012, in second para the words “M/s Warade PackTech Pvt. Ltd.” shall be substituted for the words “M/s Warade Automation Solutions Private Limited”.
- (b) S. O. No. 3356 dated 26th November, 2011, in second para the words “M/s Warade Pack Tech Pvt. Ltd.” shall be substituted for the words “M/s Warade Automation Solutions Private Limited”.

[F. No. WM-19(76)/2015]

B. N. DIXIT, Director (Legal Metrology)

नई दिल्ली, 22 फरवरी, 2017

का.आ. 585.—भारत के राजपत्र भाग II, खण्ड 3, उपखंड (ii) में प्रकाशित, उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) भारत सरकार की अधिसूचना –

- (i) का.आ. सं0 3228 दिनांक 10 सितम्बर, 2005 के दूसरे पैरा में “क्लॉस-III” शब्दों के स्थान पर “क्लॉस-III” शब्द प्रतिस्थापित किए जाएंगे।

[फा.सं. डब्ल्यू.एम-9(81)/2015]

बी. एन. दीक्षित, निदेशक (विधिक माप विज्ञान)

New Delhi, the 22nd February, 2017

S.O. 585.—In the notification of the Government of India in the Ministry of Consumer Affairs, Food and Public Distribution, (Department of Consumer Affairs) published in the Gazette of India, Part II, Section 3, Sub-section (ii)-

- (i) S. O. No. 3228 dated 10th September, 2005, in second para the words “Class-III” shall be substituted for the words “Class-III”.

[F. No. WM-9(81)/2015]

B. N. DIXIT, Director (Legal Metrology)

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नई दिल्ली, 9 मार्च, 2017

dk-vk- 586-&केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) के अधीन भारत सरकार में कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्या का. आ. 1812(अ), तारीख 30 मार्च, 2015, जो भारत के राजपत्र, असाधारण, भाग II, खंड

क्रम संख्या	ग्राम का नाम	पटवारी हल्का संख्या	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियां
1.	टांकी	70	कोतमा	अनुपपुर	93.516	भाग
कुल : 93.516 हेक्टेयर (लगभग) या 231.08 एकड़ (लगभग)						

(ख) वन भूमि:

क्रम संख्या	वन का नाम	रेंज	प्रभाग	क्षेत्र हेक्टर में	टिप्पणियां
1.	टांकी	कोतमा	अनुपपुर	200.184	भाग
2.	भाठीसरई	कोतमा	अनुपपुर	359.089	भाग
3.	मलगा	कोतमा	अनुपपुर	115.527	भाग
4.	कोरा	मनेन्द्रगढ़	मनेन्द्रगढ़	231.760	भाग
कुल : 906.560 हेक्टेयर (लगभग) या 2240.11 एकड़ (लगभग)					

कुल योग (क+ख): 1000.076 हेक्टेयर (लगभग)
या 2471.19 एकड़ (लगभग)

1. ग्राम टांकी (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 406 से 409, 410(भाग), 430(भाग), 432(भाग), 433 से 436, 437(भाग), 438 से 449, 450(भाग), 451(भाग).
2. वन टांकी (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 410(भाग), 430(भाग), 432(भाग), 437(भाग), 450(भाग), 451(भाग).
3. वन भाठीसरई (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 645(भाग), 646, 647(भाग), 649(भाग), 650 से 656.
4. वन मलगा (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 240, 241(भाग), 246(भाग), 247, 248(भाग), 253(भाग) से 255(भाग), 260(भाग), 261, 262(भाग), 263(भाग), 269(भाग), 270(भाग).
5. वन कोरा (भाग) में अर्जित किए जाने वाले कम्पार्टमेंट संख्या: 680(भाग), 681(भाग), 682(भाग).

1 hek & 0.11 %

- क—ख रेखा, बिन्दु "क" से आरंभ होती है और वन भाठीसरई के प्लॉट संख्या 645, 647, 649 से होकर फिर वन मलगा में प्रवेश कर प्लॉट संख्या 270, 269, 262, 263, 260 से होकर 261 के पूर्वी सीमा से होती हुई और बिन्दु "ख" पर मिलती है।
- ख—ग रेखा, बिन्दु "ख" से आरंभ होती है और वन मलगा के प्लॉट संख्या 255, 254, 253, 248, 246, 241, 240 से होती हुई फिर कोरा वन में प्रवेश कर कम्पार्टमेंट संख्या 680 से होती हुई और बिन्दु "ग" पर मिलती है।
- ग—घ—ड रेखा, बिन्दु "ग" से आरंभ होती है और कोरा वन के कम्पार्टमेंट संख्या 680, बिन्दु 'घ', कम्पार्टमेंट संख्या 681, 682 से होती हुई और बिन्दु "ड" पर मिलती है।
- ड—क रेखा, बिन्दु "ड" से आरंभ होती है और वन कोरा के कम्पार्टमेंट संख्या 682 से होकर वन टांकी में प्रवेश कर प्लॉट संख्या 451, 450, 430, 410, 437 से होती हुई भाठीसरई वन में प्रवेश कर प्लॉट संख्या 645 से होती हुई और आरंभिक बिन्दु "क" पर मिलती है।

[फा.सं. 43015/06/2017—एल ए एण्ड आईआर]

सुजीत कुमार, अवर सचिव

MINISTRY OF COAL

New Delhi, the 9th March, 2017

S.O. 586.—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 1812(E), dated the 30th March, 2015 published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section(ii), dated the 4th July, 2015 and as amended vide notification number S.O.2973(E), dated the 15th September, 2016 published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), dated the 16th September, 2016 issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government gave notice of

Sl. No.	Name of village	Patwari halka number	Tahsil	District	Area in hectare	Remarks
1.	Tanki	70	Kotma	Anuppur	93.516	Part
Total : 93.516 hectare (approximately) or 231.08 acre (approximately)						

(B) Forest land:

Sl. No.	Name of Forest	Range	Division	Area in hectare	Remarks
1.	Tanki	Kotma	Anuppur	200.184	Part
2.	Bhathisarai	Kotma	Anuppur	359.089	Part
3.	Malga	Kotma	Anuppur	115.527	Part
4.	Kora	Manendragarh	Manendragarh	231.760	Part
Total : 906.560 hectare (approximately) or 2240.11 acre (approximately)					

Grand total (A+B) = 1000.076 hectare (approximately)
or 2471.19 acre (approximately)

1. Plot numbers to be acquired in village Tanki (Part): 406 to 409, 410(P), 430(P), 432(P), 433 to 436, 437(P), 438 to 449, 450(P), 451(P).
2. Plot numbers to be acquired in Tanki Forest (Part): 410(P), 430(P), 432(P), 437(P), 450(P), 451(P).
3. Plot numbers to be acquired in Bhathisarai Forest (Part): 645(P), 646, 647(P), 649(P), 650 to 656.
4. Plot numbers to be acquired in Malga Forest (Part): 240, 241(P), 246(P), 247, 248(P), 253(P) to 255(P), 260(P), 261, 262(P), 263(P), 269(P), 270(P).
5. Compartment numbers to be acquired in Kora Forest (Part): 680(P), 681(P), 682(P).

Boundary description:

- A-B Line starts from point 'A' and passes in Bhathisarai Forest through plot number 645, 647, 649 then enter in Malga Forest and passes through plot number 270, 269, 262, 263, 260, along eastern boundary of 261 and meets at point 'B'.
- B-C Line starts from point 'B' and passes in Malga Forest through plot number 255, 254, 253, 248, 246, 241, 240 then enter in Kora Forest and passes through compartment no. 680 and meets at point 'C'.
- C-D-E Line starts from point 'C' and passes in Kora Forest through compartment no. 680, point 'D', compartment no. 681, 682 and meets at point 'E'.
- E-A Line starts from point 'E' and passes in Kora Forest through compartment no. 682 then enter in Tanki Forest and passes through plot number 451, 450, 430, 410, 437 then enter in Bhathisarai Forest and passes through plot number 645 and meets at starting point 'A'.

[F.No. 43015/06/2017-LA&IR]

SUJEET KUMAR, Under Secy.

नई दिल्ली, 9 मार्च, 2017

dk-vk- 587-& केन्द्रीय सरकार को यह प्रतीत होता है कि इसके उपावद्ध अनुसूची में वर्णित परिक्षेत्र की भूमि में से कोयला अभिप्राप्त होने की संभावना है ;

और उक्त अनुसूची में वर्णित भूमि के क्षेत्र में अंतर्विष्ट करने वाला रेखांक संख्यांक आर.ई.वी./01/2017, तारीख 4 जनवरी, 2017 का निरीक्षण सेंट्रल कोलफील्ड्स लिमिटेड (भूमि और राजस्व विभाग), दरभंगा हाउस, राँची – 834029 (झारखण्ड) के कार्यालय में या महाप्रबंधक, सेंट्रल कोलफील्ड्स लिमिटेड, ढोरी क्षेत्र, जिला- बोकारो (झारखण्ड) के कार्यालय में या उपायुक्त, जिला-बोकारो (झारखण्ड) या महाप्रबंधक (खोज प्रभाग), आर.आई.-III, केन्द्रीय खान योजना एवं डिजाइन संस्थान लिमिटेड, गोंडवाना पैलेस, कांके रोड, राँची (झारखंड) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता- 700001 के कार्यालय में किया जा सकता है;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है।

उक्त अनुसूची में वर्णित भूमि में हितवद्ध कोई व्यक्ति –

- (i) संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन पर आक्षेप कर सकेगा; अथवा
- (ii) उक्त अधिनियम की धारा 4 की उप-धारा (3) के अधीन की गई कार्रवाई से हुई क्षति या संभावित क्षति अधिनियम की धारा 6 के अधीन किसी नुकसानी के लिए प्रतिकर का दावा कर सकेगा; अथवा
- (iii) उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन समाप्त हो गई पूर्वोक्षण अनुज्ञप्तियों के संबंध में या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन समाप्त हो गये खनन पट्टे के लिए प्रतिकर का दावा कर सकेगा और उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों के संबंध में उपगत व्यय को उपदर्शित करने के लिए उक्त भूमि से संबंधित सभी मानचित्रों, सारणियों और अन्य दस्तावेजों को सुपुर्द करेगा,

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिनों के भीतर महाप्रबंधक, सेंट्रल कोलफील्ड्स लिमिटेड, ढोरी क्षेत्र, जिला बोकारो (झारखंड) या महाप्रबंधक, सेंट्रल कोलफील्ड्स लिमिटेड, (भूमि और राजस्व विभाग), दरभंगा हाउस, राँची – 834029 (झारखण्ड) को सुपुर्द करेगा।

अनुसूची

सेलेक्टेड ढोरी खुली खदान खान

जिला- बोकारो (झारखंड)

(रेखांक संख्यांक आर.ई.वी./01/2017, तारीख 4 जनवरी, 2017)

क्रम संख्या	ग्राम	थाना	थाना संख्या	जिला	क्षेत्रफल (एकड़ में)	क्षेत्रफल (हेक्टेयर में)	टिप्पणी
1°	तुरियो	चन्द्रपुरा	78	बोकारो	18.41	7.45	भाग
कुल:					18.41	7.45	

कुल: 18.41 एकड़ (लगभग) या 7.45 हेक्टेयर (लगभग)

सीमा-वर्णन:

- क-ख-ग-घ-ङ-च-छ रेखा, प्लॉट संख्या 1 के भीतर बिन्दु 'क' से प्रारंभ होकर प्लॉट संख्या 1 के भीतर बिन्दु 'ख', 'ग', 'घ', 'ङ' और 'च' से गुजरते हुए और बिन्दु 'छ' पर मिलती है।
- छ-ज-झ-ञ-ट-ठ रेखा, बिन्दु 'छ' से 'ठ' तक प्लॉट संख्या 308, 298, 294, 293, 285, 286 तथा 283 की सीमा रेखा से गुजरते हुए और बिन्दु 'ठ' पर मिलती है।
- ठ-ड-ढ-ण-त-थ-द-ध-न-प-फ-ब-क रेखा, बिन्दु 'ठ' से 'ब' तक प्लॉट संख्या 273, 25, 23, 21, 20, 19, 18, 17, 16, 15, 11, 10 तथा 9 की सीमा से गुजरते हुए प्लॉट संख्या 1 के भीतर प्रारंभिक बिन्दु 'क' पर मिलती है।

[फा.सं. 43015/10/2017-एलए एण्ड आईआर]

सुजीत कुमार, अवसर सचिव

New Delhi, the 9th March, 2017

S.O. 587.—Whereas, it appears to the Central Government that coal is likely to be obtained from the land in the locality described in the Schedule annexed hereto;

And, whereas, the plan bearing number Rev/01/2017, dated the 4th January, 2017 containing details of the areas of land described in the said Schedule may be inspected at the office of the Central Coalfields Limited (Land and Revenue Department), Darbhanga House, Ranchi- 834029 (Jharkhand) or at the office of the General Manager, Central Coalfields Limited, Dhori Area, District- Bokaro (Jharkhand), Deputy Commissioner, District -Bokaro (Jharkhand) or at the office of the General Manager (Exploration Division), RI- III, Central Mine Planning and Design Institute Limited, Gondwana Palace, Kanke Road, Ranchi (Jharkhand) or at the office of the Coal Controller, 1, Council House Street, Kolkata- 700 001;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), hereinafter referred to as the said Act, the Central Government hereby gives notice of its intention to prospect for coal in land described in the said Schedule.

Any person interested in the land described in the said Schedule may, —

- (i) object to the acquisition of the whole or any part of the land or of any rights in or over the said land; or
- (ii) claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 thereof ; or
- (iii) claim compensation under sub-section (1) of section 13 of the said Act in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the office of the General Manager, Central Coalfields Limited, Dhori Area, District Bokaro (Jharkhand) or General Manager, Central Coalfields Limited (Land and Revenue Department), Darbhanga House, Ranchi - 834029 (Jharkhand) within a period of ninety days from the date of publication of this notification.

SCHEDULE

Selected Dhori Opencast Mine

District – Bokaro(Jharkhand)

(Plan bearing number Rev/01/2017, dated 4th January, 2017)

Sl. No.	Village	Thana	Thana number	District	Area (in acres)	Area (in hectares)	Remarks
1.	Turio	Chandrapura	78	Bokaro	18.41	7.45	Part
Total:					18.41	7.45	

Total: 18.41 acres (approximately) or 7.45 hectares (approximately)

Boundary description:

- A-B-C-D-E-F-G : Line starts from point 'A' within plot number 1 and passes through points 'B', 'C', 'D', 'E' and 'F' and meets at point 'G' within the plot number 1.
- G-H-I-J-K-L : Line passes through points 'G' to 'L' through boundary line of plot numbers 308, 298, 294, 293, 285, 286 and 283 and meets at point L.
- L-M-N-O-P-Q-R-S-T-U-V-W-A : Line passes through points 'L' to 'W' through boundary line of plot numbers 273, 25, 23, 21, 20, 19, 18, 17, 16, 15, 11, 10 and 9 and meets at starting point 'A' within the plot number 1.

[F.No. 43015/10/2017-LA&IR]

SUJEET KUMAR, Under Secy.

नई दिल्ली, 9 मार्च, 2017

dk-vk- 588-&केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) के अधीन भारत सरकार में कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्या का. आ. 302, तारीख 19 फरवरी, 2016 जो भारत के राजपत्र के भाग II, खंड 3, उप-खंड (i), तारीख 20 फरवरी, 2016 में प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 2727.323 हेक्टर (लगभग) या 6739.21 एकड़ (लगभग) है, कोयले का पूर्वक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि इस अधिसूचना में उपाबद्ध अनुसूची में विहित की गई उक्त भूमि में कोयला अभिप्राय है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 1632.380 हेक्टर (लगभग) या 4033.61 एकड़ (लगभग) माप की उक्त भूमि और ऐसी भूमि में के या उस पर के भू-सतह अधिकार का अर्जन करने के अपने आशय की सूचना देती है:

fVli.k 1 % इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/2016/503, तारीख 7 दिसम्बर, 2016 का निरीक्षण कलेक्टर, जिला सुरजपुर और सरगुजा (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता - 700001 के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर - 495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

fVli.k 2 % उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध है:-

“8. अर्जन की बाबत आपत्तियां— (1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण— इस धारा के अन्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उप-धारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी, आपत्तिकर्ता को स्वयं सुने जाने या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात्, जो वह आवश्यक समझता है, वह या तो धारा 7 की उप-धारा (1) के अधीन अधिसूचित भूमि का या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्टें केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा”।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होगा, यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं।”

fVli.k 3% केन्द्रीय सरकार ने कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 को उक्त अधिनियम की धारा 3 के अधीन अधिसूचना संख्या का.आ. 905, तारीख 20 मार्च, 1987, जो भारत के राजपत्र, भाग II, खण्ड 3, उप-खण्ड (ii) में 4 अप्रैल, 1987 में प्रकाशित की गई थी सक्षम प्राधिकारी नियुक्त किया है।

vuq iph

रेहर पश्चिमी ब्लाक, विश्रामपुर क्षेत्र,

जिला— सुरजपुर और सरगुजा (छत्तीसगढ़)

[रेखांक संख्या एसईसीएल/ बीएसपी/जीएम(पीएलजी)/भूमि/2016/503, तारीख 7 दिसम्बर, 2016]

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क्रम सं.	ग्राम का नाम	ग्राम संख्या	पटवारी हल्का संख्या	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियां
1.	जोबगा	275	11	सुरजपुर	सुरजपुर	119.153	भाग
2.	पोंडी	270	12	सुरजपुर	सुरजपुर	176.595	भाग
3.	सपकरा	418	27	सुरजपुर	सुरजपुर	83.240	भाग

4.	मानी	659	12	सुरजपुर	सुरजपुर	476.614	भाग
5.	गेतरा	138	01	लखनपुर	सरगुजा	289.079	भाग
कुल : 1144.681 हेक्टर (लगभग) या 2828.51 एकड़ (लगभग)							

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क्रम सं.	वन का प्रकार	कम्पार्टमेंट संख्या	रेंज	प्रभाग	क्षेत्र हेक्टर में	टिप्पणियां
1.	संरक्षित वन	पी 1729	मानी	दक्षिण सरगुजा	134.690	संपूर्ण
2.	संरक्षित वन	पी 1759	पोंडी	दक्षिण सरगुजा	67.340	संपूर्ण
3.	संरक्षित वन	पी 1760	राजापुर	दक्षिण सरगुजा	150.142	संपूर्ण
4.	संरक्षित वन	पी 1761	राजापुर	दक्षिण सरगुजा	25.550	भाग
5.	संरक्षित वन	वीवीएनपी 1843	लैंगा	दक्षिण सरगुजा	77.810	भाग
6.	संरक्षित वन	वीवीएनपी 1844	लैंगा	दक्षिण सरगुजा	32.167	संपूर्ण
कुल : 487.699 हेक्टर (लगभग) या 1205.10 एकड़ (लगभग)						

कुल योग (क+ख): 1144.681+487.699=1632.380 हेक्टर (लगभग)

या 4033.61 एकड़ (लगभग)

- ग्राम जोबगा (भाग) में अर्जित किए जाने वाले प्लॉट संख्याक: 77(भाग), 78 से 81, 82(भाग), 83 से 94, 95(भाग), 96(भाग), 110(भाग), 125(भाग), 126 से 133, 134(भाग), 135 से 139, 140(भाग), 442, 443, 444(भाग), 445(भाग), 446 से 485, 486(भाग), 487(भाग), 613(भाग), 614, 615, 616(भाग), 617 से 636, 637(भाग), 644(भाग), 645(भाग), 646 से 709, 710(भाग), 711, 712(भाग), 719(भाग), 833(भाग), 834 से 837, 838, 1021(भाग), से 1024(भाग), 1027(भाग) से 1029(भाग), 1030, 1031, 1032(भाग), 1036(भाग), 1037 से 1040, 1041(भाग), 1042(भाग), 1044(भाग), 1045 से 1076, 1077(भाग), 1078 से 1152.
- ग्राम पोंडी (भाग) में अर्जित किए जाने वाले प्लॉट संख्याक: 188, 189(भाग), 190, 191, 192(भाग), 193(भाग), 194, 195, 196(भाग), 271, 272(भाग), 273, 274(भाग), 288(भाग), 291(भाग), 292 से 304, 305(भाग), 306 से 366, 369(भाग), 372(भाग), 374(भाग), 375(भाग), 376 से 386, 387(भाग), 388(भाग), 391(भाग), 392(भाग), 393 से 551, 552(भाग), 553 से 576, 581(भाग), 605(भाग), 606(भाग), 607 से 609, 793(भाग), 806(भाग), 887(भाग), 897(भाग), 899(भाग), 900, 901(भाग), 902 से 928, 929(भाग), 930(भाग), 931, 932(भाग), 934(भाग), 936(भाग), 937(भाग), 938 से 1094.
- ग्राम सपकरा (भाग) में अर्जित किए जाने वाले प्लॉट संख्याक: 321(भाग), 682(भाग), 683 से 745, 746(भाग), 747(भाग), 767(भाग), 774(भाग), 775, 776(भाग), 777(भाग), 780, 781(भाग), 782 से 786, 787(भाग), 788(भाग), 789 से 806, 808 से 827, 828(भाग), 830(भाग) से 833(भाग), 859(भाग), 867(भाग).
- ग्राम मानी (भाग) में अर्जित किए जाने वाले प्लॉट संख्याक: 22(भाग) से 30(भाग), 108(भाग), 111(भाग) से 113(भाग), 114 से 176, 177(भाग), 179(भाग), 180 से 860, 862 से 1183, 1679.
- ग्राम गेतरा (भाग) में अर्जित किए जाने वाले प्लॉट संख्याक: 1(भाग), 2 से 268, 269(भाग), 270, 271, 272(भाग), 273, 274(भाग), 275(भाग), 276, 277, 278(भाग), 279(भाग), 281(भाग), 295(भाग), 297 से 304, 305(भाग), 306 से 313, 314(भाग), 315, 316, 317(भाग), 319(भाग), 342(भाग), 343(भाग), 495(भाग), 496 से 824, 825(भाग), 826 से 840, 841(भाग), 842(भाग), 843 से 855, 856(भाग), 857 से 861, 862(भाग) से 864(भाग), 867(भाग) से 869(भाग), 884(भाग), 885(भाग), 886, 887, 888(भाग) से 891(भाग), 892 से 970, 972 से 993, 994(भाग), 995(भाग), 996, 997, 998(भाग), 1001(भाग), 1002(भाग), 1003, 1004(भाग), 1005(भाग), 1010(भाग) से 1012(भाग), 1013, 1014(भाग),

1015(भाग), 1017(भाग) से 1020(भाग), 1021, 1022(भाग), 1023, 1024, 1025(भाग) से 1027(भाग), 1032(भाग), 1036(भाग), 1050(भाग), 1051(भाग), 1052 से 1055, 1056(भाग), 1057(भाग), 1069(भाग), 1213, 1222, 1223, 1227 से 1229, 1231(भाग).

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क-ख-ग	रेखा, बिन्दु 'क' से आरंभ होती है और ग्राम गेतरा के प्लॉट संख्याक 1036, 994, 995, 998, 1001, 1002, 1004, 1005, 891, 890, 889, 888, 884, 885, बिन्दु 'ख', 856, 864, 863, 862, 867 से होती हुई बिन्दु 'ग' पर मिलती है।
ग-घ-ङ	रेखा, बिन्दु 'ग' से आरंभ होती है और ग्राम गेतरा के प्लॉट संख्याक 867, 868, 869, 842, 841, 1010, 1011, 1012, 1014, 1015, 1017, बिन्दु 'घ', 839, 1018, 1019, 1020, 1022, 1032, 1026, 1027, 1025, 1050, 1051, 1069, 1057, 1056, 825, 1231, 495, 281, 278, 279, 275, 274, 272, 295, 269, 297, 305, 306, 307, 314, 319, 317, 342, 343, 1 से होती हुई बिन्दु 'ङ' पर मिलती है।
ङ-ड1-ड2-ड3-च	रेखा, बिन्दु 'ङ' से आरंभ होती है और संरक्षित वन के कम्पार्टमेंट संख्याक वीवीएनपी 1844, बिन्दु 'ड1', वीवीएनपी 1843, बिन्दु 'ड2', बिन्दु 'ड3' से होती हुई बिन्दु 'च' पर मिलती है।
च-छ	रेखा, बिन्दु 'च' से आरंभ होती है और संरक्षित वन के कम्पार्टमेंट संख्याक वीवीएनपी 1843, पी 1761 से होती हुई बिन्दु 'छ' पर मिलती है।
छ-ज	रेखा, बिन्दु 'छ' से आरंभ होती है और ग्राम जोबगा के प्लॉट संख्या 1022, 1023, 1024, 1077, 1027, 1028, 1021, 1032, 1036, 1041, 1042, 1044, 1021, 838, 833, 710, 712, 719, 644, 645, 637, 613, 616, 487, 486, 444, 445, 140, 134, 125, 110, 95, 96, 82, 77 से होती हुई जाती है और बिन्दु 'ज' पर मिलती है।
ज-झ	रेखा, बिन्दु 'ज' से आरंभ होती है और संरक्षित वन के कम्पार्टमेंट संख्या पी 1759 के उत्तरी सीमा से होती हुई जाती है और बिन्दु 'ज' पर मिलती है।
झ-ञ	रेखा, बिन्दु 'झ' से आरंभ होती है और ग्राम पोंडी के प्लॉट संख्याक 189, 192, 193, 196, 391, 392, 388, 387, 375, 374, 369, 368, 372, 272, 274, 305, 288, 291, 552, 581 से होकर 555, 576, 575 के उत्तरी सीमा, 605, 606, 609, 793, 806, 901, 897, 899, 928, 929, 930, 887, 932, 934, 936, 937 से होती हुई जाती है और बिन्दु 'ञ' पर मिलती है।
ञ-ट	रेखा, बिन्दु 'ञ' से आरंभ होती है और ग्राम मानी के प्लॉट संख्याक 22, 23, 24, 25, 26, 27, 28, 29, 30, 108, 111, 112, 113, 177, 179 से होती हुई जाती है और बिन्दु 'ट' पर मिलती है।
ट-ठ	रेखा, बिन्दु 'ञ' से आरंभ होती है और ग्राम सपकरा के प्लॉट संख्याक 682, 321, 747, 746, 788, 787, 774, 776, 777, 781, 767, 826, 828, 830, 831, 832, 833, 859, 867 से होती हुई जाती है और बिन्दु 'ठ' पर मिलती है।
ठ-ड-ढ	रेखा, बिन्दु 'ठ' से आरंभ होती है और रेहर नदी के पश्चिमी किनारा और बिन्दु 'ड' से होती हुई जाती है और बिन्दु 'ढ' पर मिलती है।
ढ-क	रेखा, बिन्दु 'ढ' से आरंभ होती है और जोबगा नाला के उत्तरी किनारे से होती हुई जाती है और प्रारंभिक बिन्दु 'क' पर मिलती है।

[फा.सं. 43015/5/2017-एलए एण्ड आईआर]

सुजीत कुमार, अवर सचिव

New Delhi, the 9th March, 2017

S.O. 588.—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 302, dated the 19th February, 2016 issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, part II, section 3, sub-section (ii), dated the 20th February, 2016, the Central Government gave notice of its intention to prospect for coal in 2727.323 hectares (approximately) or 6739.21 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the land measuring 1632.380 hectares (approximately) or 4033.61 acres (approximately) as surface rights in or over the said land specified in the Schedule appended hereto:

Note1: The plan bearing number SECL/BSP/GM(PLG)/LAND/2016/503, dated the 7th December, 2016 of the area covered by this notification may be inspected in the office of the Collector, District Surajpur and Surguja (Chhattisgarh) or in the office of the Coal Controller, 1, Council House Street, Kolkata – 700001 or in the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur- 495006 (Chhattisgarh).

Note 2 : Attention is hereby invited to the provisions of section 8 of the said Act which provides as follows:-

“8. Objections to Acquisition.- (1) Any person interested in any land in respect of which a notification under section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such land.

Explanation.—It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operation should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either makes a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of the Government.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act”.

Note 3: The Coal Controller, 1, Council House Street, Kolkata-700001 has been appointed by the Central Government as the competent authority under section 3 of the said Act, vide notification number S.O. 905, dated the 20th March, 1987, published in part II, section 3, sub-section (ii) of the Gazette of India, dated the 4th April, 1987.

SCHEDULE

Rehar West Block, Bishrampur Area,

District Surajpur and Surguja (Chhattisgarh)

(Plan bearing number SECL/ BSP/ GM(PLG)/ LAND/2016/ 503, dated the 7th December, 2016)

Surface Right:

(A) Revenue Land:

[illegible]

(B) Protected Forest Land:

Sl. No.	Type of Forest	Compartment number	Range	Division	Area in hectares	Remarks
1.	Protected Forest	P 1729	Mani	South Surguja	134.690	Full
2.	Protected Forest	P 1759	Pondi	South Surguja	67.340	Full
3.	Protected Forest	P 1760	Rajapur	South Surguja	150.142	Full
4.	Protected Forest	P 1761	Rajapur	South Surguja	25.550	Part
5.	Protected Forest	VVNP 1843	Lainga	South Surguja	77.810	Part
6.	Protected Forest	VVNP 1844	Lainga	South Surguja	32.167	Full
Total :- 487.699 hectares (approximately) or 1205.10 acres (approximately)						

Total (A+B)= 1144.681+487.699 = 1632.380 hectares (approximately)
or 4033.61 acres (approximately)

1. Plot numbers to be acquired in village Jobga (Part): 77(P), 78 to 81, 82(P), 83 to 94, 95(P), 96(P), 110(P), 125(P), 126 to 133, 134(P), 135 to 139, 140(P), 442, 443, 444(P), 445(P), 446 to 485, 486(P), 487(P), 613(P), 614, 615, 616(P), 617 to 636, 637(P), 644(P), 645(P), 646 to 709, 710(P), 711, 712(P), 719(P), 833(P), 834 to 837, 838, 1021(P) to 1024(P), 1027(P) to 1029(P), 1030, 1031, 1032(P), 1036(P), 1037 to 1040, 1041(P), 1042(P), 1044(P), 1045 to 1076, 1077(P), 1078 to 1152.

2. Plot numbers to be acquired in village Pondi (Part): 188, 189(P), 190, 191, 192(P), 193(P), 194, 195, 196(P), 271, 272(P), 273, 274(P), 288(P), 291(P), 292 to 304, 305(P), 306 to 366, 369(P), 372(P), 374(P), 375(P), 376 to 386, 387(P), 388(P), 391(P), 392(P), 393 to 551, 552(P), 553 to 576, 581(P), 605(P), 606(P), 607 to 609, 793(P), 806(P), 887(P), 897(P), 899(P), 900, 901(P), 902 to 928, 929(P), 930(P), 931, 932(P), 934(P), 936(P), 937(P), 938 to 1094.

3. Plot numbers to be acquired in village Sapkara (Part): 321(P), 682(P), 683 to 745, 746(P), 747(P), 767(P), 774(P), 775, 776(P), 777(P), 780, 781(P), 782 to 786, 787(P), 788(P), 789 to 806, 808 to 827, 828(P), 830(P) to 833(P), 859(P), 867(P).

4. Plot numbers to be acquired in village Mani (Part): 22(P) to 30(P), 108(P), 111(P) to 113(P), 114 to 176, 177(P), 179(P), 180 to 860, 862 to 1183, 1679.

5. Plot numbers to be acquired in village Getra (Part): 1(P), 2 to 268, 269(P), 270, 271, 272(P), 273, 274(P), 275(P), 276, 277, 278(P), 279(P), 281(P), 295(P), 297 to 304, 305(P), 306 to 313, 314(P), 315, 316, 317(P), 319(P), 342(P), 343(P), 495(P), 496 to 824, 825(P), 826 to 840, 841(P), 842(P), 843 to 855, 856(P), 857 to 861, 862(P) to 864(P), 867(P) to 869(P), 884(P), 885(P), 886, 887, 888(P) to 891(P), 892 to 970, 972 to 993, 994(P), 995(P), 996, 997, 998(P), 1001(P), 1002(P), 1003, 1004(P), 1005(P), 1010(P) to 1012(P), 1013, 1014(P), 1015(P), 1017(P) to 1020(P), 1021, 1022(P), 1023, 1024, 1025(P) to 1027(P), 1032(P), 1036(P), 1050(P), 1051(P), 1052 to 1055, 1056(P), 1057(P), 1069(P), 1213, 1222, 1223, 1227 to 1229, 1231(P).

Boundary Description:

A-B-C Line starts from point 'A' and passes in village Getra through plot numbers 1036, 994, 995, 998, 1001, 1002, 1004, 1005, 891, 890, 889, 888, 884, 885, point 'B' 856, 864, 863, 862, 867 and meets at point 'C'.

C-D-E Line starts from point 'C' and passes in village Getra through plot numbers 867, 868, 869, 842, 841, 1010, 1011, 1012, 1014, 1015, 1017, point 'D', 839, 1018, 1019, 1020, 1022, 1032, 1026, 1027,

	1025, 1050, 1051, 1069, 1057, 1056, 825, 1231, 495, 281, 278, 279, 275, 274, 272, 295, 269, 297, 305, 306, 307, 314, 319, 317, 342, 343, 1 and meets at point 'E'.
E-E1- E2-E3-F	Line starts from point 'E' and passes through Protected Forest compartment number VVNP 1844, point 'E1', VVNP 1843, point 'E2', Point 'E3' and meets at point 'F'.
F-G	Line starts from point 'F' and passes through Protected Forest compartment number VVNP 1843, P 1761 and meets at point 'G'.
G-H	Line starts from point 'G' and passes in village Jobga through plot numbers 1022, 1023, 1024, 1077, 1027, 1028, 1021, 1032, 1036, 1041, 1042, 1044, 1021, 838, 833, 710, 712, 719, 644, 645, 637, 613, 616, 487, 486, 444, 445, 140, 134, 125, 110, 95, 96, 82, 77 and meets at point 'H'.
H-I	Line starts from point 'H' and passes along northern boundary of Forest compartment number P1759 and meets at point 'I'.
I-J	Line starts from point 'I' and passes in village Pondi through plot numbers 189, 192, 193, 196, 391, 392, 388, 387, 375, 374, 369, 368, 372, 272, 274, 305, 288, 291, 552, 581, along northern boundary of plot numbers 555, 576, 575, through 605, 606, 609, 793, 806, 901, 897, 899, 928, 929, 930, 887, 932, 934, 936, 937 and meets at point 'J'.
J-K	Line starts from point 'J' and passes in village Mani through plot numbers 22, 23, 24, 25, 26, 27, 28, 29, 30, 108, 111, 112, 113, 177, 179 and meets at point 'K'.
K-L	Line starts from point 'K' and passes in village Sapkara through plot numbers 682, 321, 747, 746, 788, 787, 774, 776, 777, 781, 767, 826, 828, 830, 831, 832, 833, 859, 867 and meets at point 'L'.
L-M-N	Line starts from point 'L' and passes along western bank of Rehar River, point 'M' and meets at point 'N'.
N-A	Line starts from point 'N' and passes along northern bank of Jobga Nala and meets at starting point 'A'.

[F. No. 43015/ 5/ 2017-LA&IR]

SUJEET KUMAR, Under Secy.

नई दिल्ली, 9 मार्च, 2017

dk- vk- 589—केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि में कोयला अभिप्राय किए जाने की संभावना है;

और रेखांक संख्या एसईसीएल/बीएसपी/जीएम/पीएलजी/भूमि /506, तारीख 17 जनवरी, 2017 का जिसमें उक्त अनुसूची में वर्णित भूमि क्षेत्र के ब्यौरे अन्तर्विष्ट है, निरीक्षण कलक्टर, जिला शहडोल (मध्यप्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता - 700001 के कार्यालय में या साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पूर्वोक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वक्षण करने के अपने आशय की नोटिस देती है।

उपरोक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति—

- संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन का आक्षेप कर सकेगा ; अथवा
- उक्त अधिनियम की धारा 4 की उप-धारा (3) के अधीन की गई कार्रवाई से हुई क्षति या सम्भवित क्षति उक्त अधिनियम की धारा 6 के अधीन किसी नुकसानी के लिये प्रतिकर का दावा कर सकेगा; अथवा
- उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन समाप्त हो गई पूर्वक्षण अनुज्ञप्तियों के संबंध में या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन समाप्त हो गये खनन पट्टे के लिये प्रतिकर का दावा कर सकेगा और उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों के संबंध में उपगत व्यय को उपदर्शित करने के लिये उक्त भूमि से संबंधित सभी मानचित्रों, चार्टों और अन्य दस्तावेजों को सुपुर्द करेगा,

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) को सौंपेगा।

vud ph

चान्पा ब्लाक, सोहागपुर क्षेत्र

जिला—शहडोल (मध्य प्रदेश)

(रेखांक संख्या एसईसीएल/बीएसपी/जीएम/पीएलजी/भूमि/506, तारीख 17 जनवरी, 2017)

क्रम सं.	ग्राम का नाम	पटवारी हल्का संख्या	बंदोबस्त संख्या	तहसील	जिला	क्षेत्र हेक्टर में	टिप्प— णियां
1.	चांपा	72	291	सोहागपुर	शहडोल	340.000	भाग
2.	पोंगरी	61	821	सोहागपुर	शहडोल	40.000	भाग
3.	हरदी	62	1029	सोहागपुर	शहडोल	40.000	भाग
4.	जमुई	70	338	सोहागपुर	शहडोल	160.000	भाग
5.	जमुआ	71	332	सोहागपुर	शहडोल	322.619	संपूर्ण
6.	गोरतरा	71	234	सोहागपुर	शहडोल	50.000	भाग
7.	नरसरहा	78	510	सोहागपुर	शहडोल	32.298	भाग
8.	कुदरी	72	116	सोहागपुर	शहडोल	308.083	संपूर्ण
9.	कोतमा	73	118	सोहागपुर	शहडोल	400.000	भाग
कुल : 1693.000 हेक्टर (लगभग) या 4183.40 एकड़ (लगभग)							

I hek & o.ku%

- क—ख रेखा, बिन्दु 'क' से आरंभ होती है और ग्राम कोतमा, चांपा के मध्य भाग, ग्राम पोंगरी के पश्चिमी भाग से गुजरती है और बिन्दु 'ख' पर मिलती है।
- ख—ग रेखा, बिन्दु 'ख' से आरंभ होती है और ग्राम पोंगरी, हरदी के पश्चिमी भाग, ग्राम जमुई के मध्य भाग से होती हुई जाती है और बिन्दु 'ग' पर मिलती है।
- ग—घ रेखा, बिन्दु 'ग' से आरंभ होती है और ग्राम जमुई के मध्य भाग, ग्राम जमुआ के दक्षिणी सीमा, ग्राम नरसरहा के पूर्वी भाग से होती हुई जाती है और बिन्दु 'घ' पर मिलती है।
- घ—ङ रेखा, बिन्दु 'घ' से आरंभ होती है और ग्राम नरसरहा के पूर्वी भाग से होती हुई ग्राम नरसरहा—कुदरी के सम्मिलित सीमा में बिन्दु 'ङ' पर मिलती है।
- ङ—क रेखा, बिन्दु 'ङ' से आरंभ होती है और ग्राम कुदरी के भागतः दक्षिणी और पश्चिमी सीमा, ग्राम कोतमा के मध्य भाग से होती हुई जाती है और आरंभिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/11/2017—एलए एण्ड आईआर]

सुजीत कुमार, अवर सचिव

New Delhi, the 9th March, 2017

S.O. 589.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands in the locality mentioned in the Schedule annexed hereto;

And, whereas, the plan bearing number SECL/ BSP/ GM/ PLG/ LAND/ 506, dated the 17th January, 2017 containing the details of the area of land described in the Schedule to the aforesaid plan may be inspected at the office of the Collector, District - Shahdol (Madhya Pradesh) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur - 495006 (Chhattisgarh);

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal in the land described in the aforesaid Schedule;

Any person interested in the land described in the said Schedule may-

- (i) object to the acquisition of the whole or any part of the land or of any rights in or over such land; or
- (ii) claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act; or
- (iii) claim compensation under sub-section (1) of section 13 of the said Act, in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the Officer-In-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattishgarh) within a period of ninety days from the date of publication of this notification.

SCHEDULE

Chainpa Block, Sohagpur Area,

District-Shahdol, Madhya Pradesh

[Plan bearing number SECL/BSP/GM/PLG/LAND/ 506, dated the 17th January, 2017]

Sl. No.	Name of village	Patwari halka number	Bandobast number	Tahsil	District	Area in hectares	Remarks
1.	Chanpa	72	291	Sohagpur	Shahdol	340.000	Part
2.	Pongari	61	821	Sohagpur	Shahdol	40.000	Part
3.	Hardi	62	1029	Sohagpur	Shahdol	40.000	Part
4.	Jamui	70	338	Sohagpur	Shahdol	160.000	Part
5.	Jamua	71	332	Sohagpur	Shahdol	322.619	Full
6.	Gortara	71	234	Sohagpur	Shahdol	50.000	Part
7.	Narsarha	78	510	Sohagpur	Shahdol	32.298	Part
8.	Kudri	72	116	Sohagpur	Shahdol	308.083	Full
9.	Kotma	73	118	Sohagpur	Shahdol	400.000	Part
Total: 1693.000 hectares (approximately) or 4183.40 acres (approximately)							

Boundary description:

- A-B Line starts from point 'A' and passes through middle part of village Kotma, Chanpa, western part of village Pongari and meets at point 'B'.
- B-C Line starts from point 'B' and passes through western part of village Pongari, Hardi, middle part of village Jamui and meets at point 'C'.
- C-D Line starts from point 'C' and passes through middle part of village Jamui, along southern boundary of village Jamua, eastern part of village Narsarha and meets at point 'D'.
- D-E Line starts from point 'D' and passes through eastern part of village narsarha and meets at point 'E' on common boundary of villages Narsarha-Kudri.
- E-A Line starts from point 'E' and passes along partly southern and western boundary of village Kudri, through middle part of village Kotma and meets at starting point 'A'.

[F. No. 43015/11 /2017-LA&IR]

SUJEET KUMAR, Under Secy.

नई दिल्ली, 9 मार्च, 2017

का.आ. 590.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का. आ. 18, तारीख 29 दिसम्बर, 2016 द्वारा, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 7 जनवरी, 2017 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची की वर्णित भूमि में या उस पर के सभी अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप में केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है, कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, पोस्ट बाक्स संख्या 60, जिला बिलासपुर- 495006 (छत्तीसगढ़) (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिये रजामंद हैं ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश करती है कि उक्त भूमि में या उस पर के सभी अधिकार केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, 7 जनवरी, 2017 से निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, अर्थात् –

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथावधारित प्रतिकर, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी ;
2. सरकारी कम्पनी द्वारा शर्त 1 के अधीन केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा और ऐसे किसी अधिकरण और अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इसी प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपीलें आदि सभी विधिक कार्रवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे;
3. सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो ;
4. सरकारी कंपनी को केन्द्रीय सरकार के पूर्व अनुमोदन के बिना उक्त भूमि को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और
5. सरकारी कंपनी, ऐसे निदेशों और शर्तों का पालन करेगी, और केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं ।

[फा.सं. 43015/4/2016-एलए एण्ड आईआर]

सुजीत कुमार, अवर सचिव

New Delhi, the 9th March, 2017

S.O. 590.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 18, dated the 29th December, 2016 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 7th January, 2017, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land with all rights in or over the said land described in Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the South Eastern Coalfields Limited, Seepat Road, Post Box number 60, District-Bilaspur-495006 (Chhattisgarh) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs, that the all rights in or over the said land so vested with effect from the 7th January, 2017 instead of continuing to so vest in the Central Government, shall vest in the Government Company subject to the following terms and conditions, namely:-

1. The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like as determined under the provisions of the said Act;
2. A Tribunal shall be constituted under section 14 for the purpose of determining the amounts payable to the Central Government by the Government Company under condition 1 and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said lands so vested, shall also be borne by the Government Company;
3. The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested;
4. The Government Company shall have no power to transfer the said lands to any other persons without the prior approval of the Central Government; and
5. The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F. No. 43015/4/ 2016-LA&IR]

SUJEET KUMAR, Under Secy.

नई दिल्ली, 9 मार्च, 2017

dk-vk- 591-&केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि में कोयला अभिप्राप्त किए जाने की संभावना है;

और रेखांक संख्या एसईसीएल / बीएसपी / जीएम (पीएलजी) / भूमि/505, तारीख 26 दिसम्बर, 2016 का जिसमें उक्त अनुसूची में वर्णित भूमि क्षेत्र के ब्यौरे अन्तर्विष्ट है, निरीक्षण कलेक्टर, जिला अनुपपुर (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता - 700001 के कार्यालय में या साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पूर्वोक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है ;

उपरोक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति—

- (i) संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन का आक्षेप कर सकेगा ; या
- (ii) उक्त अधिनियम की धारा 4 की उप-धारा (3) के अधीन की गई कार्रवाई से हुई क्षति या सम्भावित क्षति अधिनियम की धारा 6 की उप-धारा (1) के अधीन किसी नुकसानी के लिये प्रतिकर का दावा कर सकेगा; या
- (iii) उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन समाप्त हो गई पूर्वक्षण अनुज्ञप्तियों के संबंध में या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन समाप्त हो गये खनन पट्टे के लिये प्रतिकर का दावा कर सकेगा और उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों के संबंध में उपगत व्यय को उपदर्शित करने के लिये उक्त भूमि से संबंधित सभी मानचित्रों, चार्टों और अन्य दस्तावेजों को सुपुर्द करेगा,

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) को सौंपेगा।

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आमाडांड साईडिंग, जमुना कोतमा क्षेत्र

जिला—अनुपपुर, मध्य प्रदेश

[रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/505, तारीख 26 दिसम्बर, 2016]

क्रम सं.	ग्राम का नाम	पटवारी हल्का संख्या	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियां
1.	बैहाटोला	45	कोतमा	अनुपपुर	0.500	भाग
2.	कटकोना	46	कोतमा	अनुपपुर	3.000	भाग
3.	बेलिया	47	कोतमा	अनुपपुर	4.500	भाग
4.	पिपरहा	50	कोतमा	अनुपपुर	6.500	भाग
5.	सेमरा	52	कोतमा	अनुपपुर	10.000	भाग
6.	फूलकोना	55	कोतमा	अनुपपुर	8.500	भाग
7.	खोडरी	56	कोतमा	अनुपपुर	3.000	भाग
8.	कोहका	56	कोतमा	अनुपपुर	3.000	भाग
कुल : 39.00 हेक्टर (लगभग) या 96.37 एकड़ (लगभग)						

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क—ख रेखा बिन्दु 'क' से आरंभ होती है और ग्राम बैहाटोला के दक्षिणी भाग से गुजरती हुई बिन्दु 'ख' पर मिलती है।
 ख—ग रेखा बिन्दु 'ख' से आरंभ होती है और ग्राम कटकोना के उत्तरी भाग से होती हुई बिन्दु 'ग' पर मिलती है।
 ग—घ रेखा बिन्दु 'ग' से आरंभ होती है और ग्राम बेलिया के दक्षिणी भाग से होती हुई बिन्दु 'घ' पर मिलती है।
 घ—ङ रेखा बिन्दु 'घ' से आरंभ होती है और ग्राम पिपरहा के मध्य भाग से होती हुई बिन्दु 'ङ' पर मिलती है।
 ङ—च रेखा बिन्दु 'ङ' से आरंभ होती है और ग्राम सेमरा के मध्य भाग से गुजरती हुई बिन्दु 'च' पर मिलती है।
 च—छ रेखा बिन्दु 'च' से आरंभ होती है और ग्राम फूलकोना के पश्चिमी भाग से गुजरती हुई बिन्दु 'छ' पर मिलती है।
 छ—ज रेखा बिन्दु 'छ' से आरंभ होती है और ग्राम खोडरी के दक्षिणी पूर्वी किनारे से गुजरती हुई बिन्दु 'ज' पर मिलती है।
 ज—झ रेखा बिन्दु 'ज' से आरंभ होती है और ग्राम कोहका के मध्य भाग से गुजरती हुई बिन्दु 'झ' पर मिलती है।
 झ—ञ रेखा बिन्दु 'झ' से आरंभ होती है और ग्राम कोहका के मध्य भाग से गुजरती हुई बिन्दु 'ञ' पर मिलती है।
 ज—ट रेखा बिन्दु 'ञ' से आरंभ होती है और ग्राम कोहका में उत्तरी दिशा की ओर गुजरती हुई बिन्दु 'ट' पर मिलती है।
 ट—ठ रेखा बिन्दु 'ट' से आरंभ होती है और ग्राम खोडरी के दक्षिणी पूर्वी किनारे से गुजरती हुई बिन्दु 'ठ' पर मिलती है।
 ठ—ड रेखा बिन्दु 'ठ' से आरंभ होती है और ग्राम फूलकोना के पश्चिमी भाग से गुजरती हुई बिन्दु 'ड' पर मिलती है।
 ड—ढ रेखा बिन्दु 'ड' से आरंभ होती है और ग्राम सेमरा के मध्य भाग से गुजरती हुई बिन्दु 'ढ' पर मिलती है।
 ढ—ण रेखा बिन्दु 'ढ' से आरंभ होती है और ग्राम पिपरहा के मध्य भाग से गुजरती हुई बिन्दु 'ण' पर मिलती है।
 ण—त रेखा बिन्दु 'ण' से आरंभ होती है और ग्राम बेलिया के दक्षिणी भाग से गुजरती हुई बिन्दु 'त' पर मिलती है।
 त—थ रेखा बिन्दु 'त' से आरंभ होती है और ग्राम कटकोना के उत्तरी भाग से गुजरती हुई बिन्दु 'थ' पर मिलती है।
 थ—द रेखा बिन्दु 'थ' से आरंभ होती है और ग्राम बैहाटोला के दक्षिणी भाग से गुजरती हुई बिन्दु 'द' पर मिलती है।
 द—क रेखा बिन्दु 'द' से आरंभ होती है और ग्राम बैहाटोला के दक्षिणी भाग से गुजरती हुई आरंभिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/9/2017—एलए एण्ड आईआर]

सुजीत कुमार, अवर सचिव

New Delhi, the 9th March, 2017

S.O. 591.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands in the locality mentioned in the Schedule annexed hereto;

And whereas, the plan bearing number SECL/BSP/GM(PLG)/LAND/ 505, dated the 26th December, 2016 containing details of the area of land described in the said Schedule may be inspected at the office of the Collector, District Anuppur (Madhya Pradesh) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur -495006 (Chhattisgarh);

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal in the land described in the said Schedule;

Any person interested in the land described in the said Schedule may, -

- (i) object to the acquisition of the whole or any part of the land or of any rights in or over such land; or
- (ii) claim compensation under sub-section (1) of section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act; or
- (iii) claim compensation under sub-section (1) of section 13 of the said Act, in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the Officer-In-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh) within a period of ninety days from the date of publication of this notification in the official Gazette.

SCHEDULE

Amadand Siding, Jamuna Kotma Area

District-Anuppur, Madhya Pradesh

[Plan bearing number SECL/BSP/GM (PLG)/LAND/ 505, dated the 26th December, 2016]

Sl. No.	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1.	Baihatola	45	Kotma	Anuppur	0.500	Part
2.	Katkona	46	Kotma	Anuppur	3.000	Part
3.	Beliya	47	Kotma	Anuppur	4.500	Part
4.	Piparah	50	Kotma	Anuppur	6.500	Part
5.	Semra	52	Kotma	Anuppur	10.000	Part
6.	Fulkona	55	Kotma	Anuppur	8.500	Part
7.	Khodri	56	Kotma	Anuppur	3.000	Part
8.	Kuhka	56	Kotma	Anuppur	3.000	Part
Total: 39.00 hectares (approximately) or 96.37 acres (approximately)						

Boundary description:

- A-B Line starts from point 'A' and passes through southern part of village Baihatola and meets at point 'B'.
- B-C Line starts from point 'B' and passes through northern part of village Katkona and meets at point 'C'.
- C-D Line starts from point 'C' and passes through southern part of village Beliya and meets at point 'D'.
- D-E Line starts from point 'D' and passes through middle part of village Piparah and meets at point 'E'.

E-F	Line starts from point 'E' and passes through middle part of village Semra and meets at point 'F'.
F-G	Line starts from point 'F' and passes through western part of village Fulkona and meets at point 'G'.
G-H	Line starts from point 'G' and passes through south east corner part of village Khodri and meets at point 'H'.
H-I	Line starts from point 'H' and passes through middle part of village Kuhka and meets at point 'I'.
I-J	Line starts from point 'I' and passes through middle part of village Kuhka and meets at point 'J'.
J-K	Line starts from point 'J' and passes towards north in village Kuhka and meets at point 'K'.
K-L	Line starts from point 'K' and passes through south east corner part of village Khodri and meets at point 'L'.
L-M	Line starts from point 'L' and passes through western part of village Fulkona and meets at point 'M'.
M-N	Line starts from point 'M' and passes through middle part of village Semra and meets at point 'N'.
N-O	Line starts from point 'N' and passes through middle part of village Piparah and meets at point 'O'.
O-P	Line starts from point 'O' and passes through southern part of village Beliya and meets at point 'P'.
P-Q	Line starts from point 'P' and passes through northern part of village Katkona and meets at point 'Q'.
Q-R	Line starts from point 'Q' and passes through southern part of village Baihatola and meets at point 'R'.
R-A	Line starts from point 'R' and passes through southern part of village Baihatola and meets at starting point 'A'.

[F. No. 43015/9/2017-LA&IR]

SUJEET KUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 1 मार्च, 2017

का.आ. 592.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमिश्नर एमसीडी नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 128/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/02/2012-आईआर(डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 1st March, 2017

S.O. 592.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 128/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner, MCD, New Delhi and their workman, which was received by the Central Government on 26.12.2016.

[No. L-42011/02/2012-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI****Present:-** Shri Harbansh Kumar Saxena**ID.No. 128/2012**

The General Secretary,
Municipal Employees Union
Aggarwal Bhawan, G. T. Road,
Tis Hazari, Delhi – 110054

Versus

The Commissioner,
Municipal Corporation of Delhi (MCD),
Civic Centre, Kamla Nagar Market,
New Delhi - 110054

EX-PARTE AWARD

On 16.08.2012 reference No. L-42011/02/2012-IR (DU) Dated – 30.07.2012 for the Government of India, Ministry of Labour, New Delhi received in this tribunal the ID Case No. 128/2012 was registered.

Notices to parties issued workman was directed to file claim statement within 15 days from the date of receipt of notice complete with all relevant documents list of reliance and witnesses.

Workman filed his claim statement on 23.11.2012.

Through which he prayed as follows:-

“It is, therefore, prayed that an Award be made in favour of the workman thereby set aside the office order dated 12.01.2005 as per which penalty of stoppage of three increments with future effect has been imposed upon the workman and the management is directed to pay all consequential benefits and to pay him the entire difference of salary with all arrears either monetary or otherwise. The cost of litigation as provided in Section 11(7) of the Industrial Disputes Act, 1947 may also be awarded to the workman.

Any other order, relief or directions as may deem fit to this Hon’ble Tribunal may also be given in favour of the workman.”

Management has not filed written statement inspite of several opportunities hence right to file written statement of management has been closed by me on 03.09.2014 and fixed 22.09.2014 for ex-parte evidence of workman.

On 01.12.2014 workman filed his affidavit alongwith affidavit of his witness Sh. Surender Bhardawaj.

On 04.02.2015 workman in his ex-parte evidence tendered his affidavit and affidavit of his witness Sh. Surender bhardawaj as WW1 and WW2 respectively. Thereafter evidence of workman has been closed.

On 10.08.2016 written arguments on behalf of workman filed through which he prayed as follows:-

“It is ,therefore, prayed that an Award be made in favour of the workman holding thereby set aside the office order dated 12.01.2005 as per which penalty of stoppage of three increments with future effect has been imposed upon the workman and the management is direct to pay all consequential benefits and to pay him the entire difference of salary with all arrears either monetary or otherwise. The cost of litigation as provided in Section 11(7) of the I.D. Act, may also be awarded to the workman.”

He placed reliance on principles laid down by Hon’ble Supreme Court is cited rulings.

In the light of contentions mentioned in the written arguments. I perused the pleadings of claim statement and ex-parte evidence of workman. Which shows that workman and his witness through their ex-parte evidence tendered following documents:-

- WW1/A –** Affidavit of workman
- WW1/1 –** Photo copy of legal demand notice by workman to management
- WW1/2 –** Photo copy of postal receipt of aforesaid registered notice
- WW1/3 -** Photo copy of A. D.
- WW1/4 –** Photo copy of notice etc issued to workman on behalf vigilance Director Delhi Nagar Nigam

- WW1/5** – Photo copy of Reply to aforesaid notice of workman.
- WW1/6** – Photo copy of 15 days show cause notice dated 01.04.2004 along with copy of enquiry report to workman for making representation or submission by workman before disciplinary Authority.
- WW1/7-** Photo copy of show cause notice dated 12.01.2005 issued to workman Kishan Kumar Driver against proposed punishment of stoppage of three increments with future effect, Through which workman was invited to make represented.
- WW1/8** – Photo copy of reply to show cause dated 01.04.2004.
- WW1/9** – Photo copy of claim statement
- WW1/10** – Photo copy of written statement of MCD filed before the conciliation officer (Central), New Delhi.
- WW1/11** – Photo copy of rejoinder filed by workman before conciliation officer (Central), New Delhi.
1. Affidavit of WW2 Ext- WW2/A
 2. Photo copy of resolution dated 16.12.2008 and Ext-WW2/1

Perusal of ex-parte evidence of workman need it crystal that workman tried to prove that he committed no misconduct and tried to whistle out his charge sheet dated 17.04.2002, containing allegations that Sh. Krishan Kumar while working as driver in CSE Department during the year 1999 was found responsible for committing gross misconduct in as much as that on 11.12.1999 he had taken his allotted truck no 2867 in Shahdara area i.e. beyond his prescribed route of ward no 118-A, Kalyan Vihar without obtaining approval from the Competent Authority.

He, thereby, contravened Rule 3(1) (i) and (ii) of the CCS conduct Rules, 1964 as made applicable to the employees of MCD.

It is admitted fact that departmental enquiry was conducted against workman and he was found guilty. Disciplinary authority agreed with the report of enquiry officer.

Workman was supplied with enquiry report alongwith show cause notice. His show cause was not found sufficient.

He was again given show cause notice against proposed punishment but his representation was not found sufficient.

Through his ex-parte evidence workman utterly failed to prove that departmental enquiry held against workman was in contravention of principles of natural justice. So his evidence is short of required evidence to ignore the enquiry proceedings which were properly held against workman.

Moreover on the basis of settled law of Hon'ble Supreme Court the power of Tribunals provided U/s 11-A ID. Act 1947 is limited to give relief in case of discharge or dismissal of workman.

In addition to its principles laid down in cited rulings are inapplicable due to distinguished facts.

On the basis of aforesaid discussion I am of considered view that reference is liable to be decided against workman and in favour of management and claim statement is liable to be dismissed, which is accordingly decided.

Ex-pare Award is accordingly passed.

Dated:-09.11.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 593.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेन्ट ऑफ पोस्ट ऑफिस देहरादून एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 42/11) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2016 को प्राप्त हुआ था।

[सं. एल-40011/6/2011-आईआर(डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 593.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 42/11) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Sr. Superintendent of Post Office, Dehradun and their workman, which was received by the Central Government on 26.12.2016.

[No. L-40011/6/2011-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

Present:- Shri Harbansh Kumar Saxena

ID. No. 42/11

Sh. Balwant Singh Panwar S/o Prem Singh Panwar,
Balawar Post, Balawar,
Dehradun.

Versus

1. The Sr. Superintendent of Post,
D/o Post, Rajpur Road,
Dehradun.
2. The Asstt. Superintendent of Post,
D/o Post,
East /Mussoorie), Arhat Bazar,
Dehradun.
3. The Post Master,
D/o Post,
Balawala,
Dehradun.

AWARD

The Central Government in the Ministry of Labour Vide Letter No:- 40011/6/2011 (IR(DU)) dated 03.06.2011 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of Post Office, Dehradun, in terminating the services of workman Sh. Balwnat Singh Panwar S/o Sh. Prem Singh Panwar from the post of Dak Pal, w.e.f . 21.04.2010 without complying section 25 F, G, H of Industrial Disputes Act, 1947, is legal and justified?

On 22.06.2011 reference was received in this Tribunal. Which was register as I.D No. 42/2011 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman filed claim statement on 3.10.2011. Through which he prayed as follows:-

“It is, therefore respectfully prayed that the management may kindly be directed to re-instate the services of the workman with continuity of service and with full back wages, and the Award may kindly be passed accordingly.”

Against claim statement management filed written statement on 6.11.2015. Through which it prayed as follows:-

“It is most respectfully prayed to this Hon’ble Court to dismiss the Applicant’s petition at the threshold.”

Against which workmen filed rejoinder on 18.02.2013. Through which he reaffirmed the contents of claim statement.

On 14.04.2013 my Ld. Predecessor framed following issues:-

1. Whether the claimant was engaged against leave vacancy from 06.05.2008 to 21.07.2010?

2. As in terms of reference.

Workman filed affidavit. Which was tendered by him on 29.04.2014. None came to cross-examine him. Hence right of cross-examination with WW1 has been closed and fixed 8.07.2014 for remaining cross-examination of workman.

On 30.03.2016 workman closed his remaining evidence. Hence I fixed 19.05.2016 for workman evidence.

On 14.07.2016 management closed his evidence. Hence I fixed 5.09.2016 for arguments.

On 5.09.2016 Ld. A/R for the workman expressed his desire to file written arguments and sought time then I fixed 20.09.2016.

On 20.09.2016 written arguments on behalf of workman filed. Then I reserved the Award.

In the light of contentions and counter contentions of Ld. A/Rs for the parties as well as contention of Ld. A/R for workman I perused the pleadings and evidence of the parties. Which shows that in the instant case only workman has adduced his evidence and he was not cross-examined by Ld.A/R for the management.

So my issue wise findings are as follows:-

FINDING ON ISSUE NO.1

On the basis of only evidence of workman it is established that workman /claimant was engaged against leave vacancy from 6.05.2008 to 21.07.2010 by management.

Hence Issue no. 1 is liable to be decided in favour of workman and against management. Which is accordingly decided.

FINDING ON ISSUE NO. 2

Which is as follows:-

As in terms of reference.

Which means it includes both questions of determination mentioned in the schedule of reference.

So I am deciding question of determination No.1.

First of all I am the provisions of S. 25 F, G, H of I.D. Act, 1947.

Provisions of S.27-F I.D. Act , 1947 are reproduced as follows:-

Conditions precedent to retrenchment of workmen- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- a. The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- b. The workman has been paid , at the time of retrenchment, compensation which shall be equivalent to fifteen day's average pay [for every completed year of continuous service] or any part thereof in excess of six months; and
- c. Notice in the prescribed manner is served on the appropriate Government [for such authority as may be specified by appropriate Government by notification in the Official Gazette.

Provisions of S.25-G I.D.Act, 1947 provides procedure for retrenchment of workman.

Which is as follows:-

Procedure for retrenchment.—“Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf , the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.”

Provisions of S. 25-H provides provisions of re-employment of retrenched workman:-

Which are as follows-

“Re-employment of retrenched workmen.—Where any workmen are retrenched and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed given an opportunity [to the retrenched workmen who are citizen of India or offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.”

None of aforesaid provisions have been followed by management.

On the basis of aforesaid discussion I am of considered view that question of determination no. 1 mentioned in the schedule of reference is liable to be decided in favour of the workman and against management because action of the management of Post Office, Dehradun, in terminating the services of workman Sh. Balwant Singh Panwar, from the post of Dak Pal w.e.f. 21.04.2010 without complying S.25 F, G and H I.D. Act, 1947 is not legal and justified. Which is accordingly decided.

Now it is to be determined to what relief the workman is entitled under question of determination No. 2 of schedule of reference.

As per settled law of Hon'ble Supreme Court workman is entitled to compensation of Rs. 50000/- only.

Reference is accordingly decided and claim statement is partly allowed.

Award is accordingly passed.

Dated:-17.11.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 594.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एमसीडी नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 14/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/158/2012-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 594.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 14/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the MCD, New Delhi and their workman, which was received by the Central Government on 26.12.2016.

[No. L-42011/158/2012-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

Present:- Shri Harbansh Kumar Saxena

ID. No. 14/2013

Sh. Harish Chandra Joshi

...workman

Versus

Municipal Corporation of Delhi

...management

AWARD

On 25.02.2013 Labour Ministry of Government of India made reference No. L-42011/158/2012 IR(DU) to this tribunal for adjudication “Whether the action of management in withholding the yearly increments of the workman with effect from the year, 2001 and the up gradations under the ACP Scheme illegal and unjustified? If so, what relief Sh. Harish Chander Joshi is entitled to and what direction are necessary in this regard?

Aforesaid reference has been received in this tribunal on 05.04.2013. Which has been registered as ID No. 14 of 2013 by my learned predecessor. Notice to workman/respondent was issued to file claim/statement response to reference fixing 29.04.2013.

On 02.08.2013 workman filed his claim statement. Copy of which supplied to representative of management.

On 30.05.2014 management filed its written statement. Copy of which supplied to workman and fixed 21.07.2014 for rejoinder.

After few dates Ld. A/R for workman on 19.12.2014 expressed his desire not to file rejoinder on behalf of workman.

Hence I closed the right of workman to file rejoinder and fixed 23.01.2015 for framing of issues.

On 22.08.2016 Ld. A/R for workman informed that his case has already been decided by way of settlement with management then Ld. A/R for management sought time to verify fact of settlement of case.

I fixed 26.09.2016 for filing of report of settlement if any.

After few dates management filed settlement report on 19.12.2016.

Through which management informed in writing that all benefits which are due to workman has been made to him till date and nothing is due to him.

On which Ld. A/R for workman made an endorsement to the effect “The workman has received the payment as claimed in the Industrial Dispute”.

Such endorsement has been signed by workman also.

On such information I reserved the award on 19.12.2016.

For passing the reserved award I perused the pleadings and evidence on record. Which makes it crystal clear that after settlement outside court management paid all dues of workman which admitted by workman in writing.

On such payment, claim of workman/claimant stands satisfied.

Award is accordingly passed.

Dated:-20/12/2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 595.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, भेल, बंगलौर व अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 29/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.12.2016 को प्राप्त हुआ था।

[सं. एल-42012/149/2015-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 595.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 29/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, BHEL, Bangalore and their workman, which was received by the Central Government on 15.12.2016.

[No. L-42012/149/2015-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 1st DECEMBER 2016**PRESENT :** Shri V. S. RAVI, Presiding Officer**C R No. 29/2015****I Party**

Shri. Umesh,
S/o Kariyaiah,
No.7, Pragathi Nilaya, Indian Bank Colony,
Ideal Homes, Rajarajeshwari Nagar,
Bangalore – 560098

II Party

The General Manager (HR),
Bharat Heavy Electronics Limited,
BHEL Electronics Division
P.B. No. 2606, Mysore Road
Bangalore - 560026

AWARD

The Central Government vide Order No. L-42012/149/2015-(IR(DU)) dated 15.09.2015 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the BHEL (EDN) Bangalore in not considering the withdrawal of resignation by Shri Umesh Ex-Workman is justified? If not to what relief the workman is entitled to?”

2. After the receipt of the reference, the matter has been registered on the file of this Tribunal and notices have been sent for both parties. Still, no representation has been made on behalf of I party and also, I party is called, absent. Further, the Registered post with acknowledgement due regarding notice of hearing, issued to I Party, in Transaction No. A-RK326900194IN, dated 02.09.2016, through India Government Service, India Post, has been returned with the endorsement “Addressee Deceased” hence, returned to sender.
3. On a perusal of records, already notices have been sent to both the parties through the RPAD with acknowledgment cards due, by this Tribunal. Hence, it is found that inspite of giving sufficient and adequate chances by issuing notices of hearing to I party, on behalf of, I party, no representation has been made. In such circumstances, the matter is posted for passing Award, after the perusal of entire records brought on record. Further, as per the Report of the Learned Assistant Labour Commissioner, (Central), Bangalore, dated 31.07.2015, the Conciliation proceeding also ended, in failure.
4. Further, from the above mentioned circumstances, it would be very much clear, in the present matter, that both the parties have, no interest to contest the present matter. It is for the I party to make out a case that I party is entitled to the above mentioned benefits and that the management has done a mistake by denying the said benefits. Under the above mentioned special circumstances and peculiar facts, this Tribunal is constrained to pass appropriate award, after the perusal of materials available on record.
5. Since no appearance on behalf of I Party has been made and also claim statement has not been filed and further, no case has been made out by I party and the present reference abates, only.
6. Further, on behalf of this reference, it is not established that the I Party is entitled to get the above mentioned benefits, though sufficient time has been granted to the I Party to establish the above mentioned rights. In the result and also in above mentioned facts and situations, it is to be held that the present reference abates, and no useful purpose will be served, in keeping the proceedings any more pending. Hence the following award.

AWARD

In the result, the present Reference, abates.

(Dictated, transcribed, corrected and signed by me on 1st December, 2016)

V. S. RAVI, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 596.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुक्त एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नई दिल्ली सं. 2 के पंचाट (संदर्भ संख्या 88/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.01.2017 को प्राप्त हुआ था।

[सं. एल-42012/92/2015-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 596.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 88/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner and their workman, which was received by the Central Government on 23.01.2017.

[No. L-42012/92/2015-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI**

Present:- Shri Harbansh Kumar Saxena

ID. No. 88/2015

Shri. Tarif Singh, S/o Sh. Amir Singh,
R/o Thanakalan, The-Kharkhoda,
Dist. Sonipat,
Haryana-131402

Versus

The Commissioner,
New Delhi Municipal Council,
Palika Kendra, Parliament Street,
New Delhi-110001.

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide letter No. L-42012/92/2015(IR(DU)) dated 26.05.2015 referred the following industrial Dispute to this Tribunal for adjudication :-

“Whether the workman Shri. Tarif Singh S/o Sh. Amir Singh is entitled to any increment as the order of the Hon’ble Delhi High Court? Is it applicable to NDMC and if yes, any or all consequential benefits arising out of grant of such increments?

On 9.6.2015 reference was received in this tribunal. Which was register as I.D No.88/2015 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parte can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated:-24.10.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 597.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, नेशनल एयरोस्पेस लेबोरेटरीज, बंगलौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 21/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/44/2016-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 597.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 21/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in Annexure, in the industrial dispute between the employers in relation to the Director, National Aerospace Laboratories, Bangalore and their workman, which was received by the Central Government on 23.12.2016.

[No. L-42011/44/2016-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 6th DECEMBER 2016

PRESENT : Shri V. S. RAVI, Presiding Officer

C R No. 21/2016

I Party

The President,
Karnataka General Labour Union,
Redg. Office No. 50, 6/3,
H. Chandra Reddy Layout, Ejipura,
Bangalore – 560047

II Party

1. The Director, National Aerospace Laboratories,
P.B.No. 1779 Kodihalli, Old Airport Road,
Bangalore – 560017.
2. The Management, Viskaan Associates,
No. 2, 2nd Floor, I Main Road,
Muneshwara Block, Mahalakshmi Layout,
Bangalore – 560086.
3. The Management, M/s Bee Gee Facility Services,
No. 68, Sridevi Complex, I Floor, VII Block,
Jaya Nagar, B'lore -82

AWARD

1. The Central Government vide Order No.L-42011/44/2016-(IR(DU))dated 06.05.2016 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the contract between National Aerospace Laboratories, Bangalore and Mr. Manimaran, Proprietor of Viskaan Associates, Bangalore, Mr. Ramana Gowdar, Proprietor of Bee Gee Facility Services, Bangalore, is sham and camouflage? If so, what relief the workmen, listed as per annexure, are entitled to?”

2. Further, during the course of proceedings the I Party-Union has filed the memo dated 27.10.2016, signed by the President and General Secretary of the I Party-Union and also signed by the advocate for the I Party-Union. Further, it is clearly stated in the said memo as follows:-

“The Hon’ble Karnataka High Court has held in the Management of National Aerospace Laboratories Vs Engineering & General Workers Union [2015 (3) KarLJ127], that the appropriate government in regard to National Aerospace Laboratories is the State Government. The same has also been upheld by the Hon’ble Supreme Court in its order dated 24.09.2015 in SLP No. 13880/2015. The I Party-Union has, accordingly, approached the State Labour Department and a conciliation in this regard is presently pending. Hence, it is prayed that this Hon’ble Tribunal be pleased to dispose of, the instant reference, with liberty to the I Party-Union to proceed with the conciliation and dispute which is pending before the State Labour Department in the interest of justice and equity”. The said memo is signed by Mr. B. Gajendra Kumar, President of KGLU, Mobile No: 9945337600 and by General Secretary of KGLU and also signed by the Advocate for the I Party-Union.

3. In support of the said memo, the I Party-Union has enclosed along with the said memo the above mentioned judgement, to establish the said submission made in the memo. On a perusal of records, it is seen that in the light of the above said judgements, passed by Hon’ble Supreme Court and the Hon’ble High Court, the I Party, has rightly, approached the State Labour Department and also Conciliation is presently pending. Accordingly, the I Party has requested to dispose of, the present reference with liberty to proceed with the conciliation and dispute, which is pending before the State Labour Department.

4. On a perusal of materials on records and also the said judgements filed by the I Party, this court is also satisfied. In the circumstances, the following award is passed.

AWARD

The present reference is disposed of, with liberty to the I Party-Union to proceed with the conciliation and dispute, which is pending before the State Labour Department. Reference is ordered, accordingly.

(Dictated, transcribed, corrected and signed by me on 6th December, 2016)

V. S. RAVI, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 598.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, केन्द्रीय फ्रोजेन वीर्य उत्पादन एवं प्रशिक्षण संस्थान एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 29/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2017 को प्राप्त हुआ था।

[सं. एल-42011/43/2014-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 598.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 29/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in Annexure, in the industrial dispute between the employers in relation to the Director, Central Frozen Semen Production and Training Institute and their workman, which was received by the Central Government on 09.02.2017.

[No. L-42011/43/2014-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 3rd FEBRUARY 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

C R No. 29/2014

I Party

The Secretary,
Central Cattle Breeding Farm,
Central Frozen Semen Production &
Training Institute Employees Union (R),
Hessarghatta, Bangalore – 560088.

II Party

1. The Director,
Central Frozen Semen Production &
Training Institute, Hessarghatta,
Bangalore – 560088
2. The Farm Superintendent,
Central Frozen Semen Production &
Training Institute, Hessarghatta,
Bangalore – 560088.

AWARD

1. The Central Government vide Order No.L-42011/43/2014-IR(DU) dated 18.07.2014 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the charter of demands raised by the central cattle breeding farm and central frozen semen production and training institute employees union and refusal by the management is justified? If not, to what relief the workmen and the union is entitled to?”

2. After the receipt of the reference, the matter has been registered on the file of this Tribunal and notices have been sent for both parties. Still, no representation has been made on behalf of I party and also, I party is called, absent. Though RPAD notice has been sent to both the Parties in Transaction No. B RK345401483 IN dated 19.11.2016 and in B RK345401470 IN dated 19.11.2016, and in Transaction No. B RK 345401466 IN dated 19.11.2016 and also postal acknowledgments have been received by this Court, through Department of Post, Government of India. However, the I Party has not made any appearance before this Court.

3. On perusal of records already notices have been sent to both the parties through the RPAD, by this Tribunal. Hence, it is found that in spite of giving sufficient and adequate chances by issuing notices of hearing to both the parties, both parties have not made any appearance. In such circumstances, the matter is posted for passing Award, after the perusal of entire records brought on record.

4. Further, from the above mentioned circumstances, it would be very much clear, in the present matter, that the I party has no interest to contest the present matter, in spite of the service of notice of hearing to the I party. It is for the I party to make out a case that I party is entitled to the above mentioned benefits and that the management has done a mistake by denying the said benefits. Under the above mentioned special circumstances and peculiar facts, this Tribunal is constrained to pass appropriate award, after the perusal of materials available on record.

5. Since no appearance has been made, and further no case has been made out by I party and the present reference has only to be rejected for non- prosecution. Therefore, keeping in view the conduct of I party in, not appearing before this Tribunal, even though notices have been sent to the I party by way of RPAD in support of the said reference, it is crystal clear that the I party is no more interested in prosecuting the claim against II party. In the result and also in above mentioned facts and situations, it is to be held that the present reference has to be rejected, for non prosecution and no useful purpose will be served in keeping the proceedings any more pending. Hence the following award.

AWARD

Reference is dismissed for non-prosecution.

(Dictated, transcribed, corrected and signed by me on 3rd February, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 599.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक एम/एस इंस्ट्रुमेंटेशन लिमिटेड एवं उनके कर्मचारी के प्रबंधन के संबंध में निम्नलिखित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 05/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.11.2016 को प्राप्त हुआ था।

[सं. एल-13011/02/2012-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 599.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 05/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Eranakulam as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, M/s. Instrumentation Limited and their workman, which was received by the Central Government on 09.11.2016.

[No. L-13011/02/2012-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer

(Friday the 07th day of October, 2016/15th Asvina, 1938)

ID 5/2013

- | | | |
|------------|---|--|
| Unions | : | <p>1. The General Secretary,
Instrumentation Workers Union,
Kanjikode West,
Palakkad – 678623.</p> <p>By Adv. Shri. Asok M. Cherian</p> <p>2. The General Secretary,
Instrumentation Employees Union,
Kanjikode West,
Palakkad – 678623.</p> <p>By Adv. Shri. C. Anilkumar</p> |
| Management | : | <p>The General Manager,
M/s Instrumentation Ltd,
Kanjikode West,
Palakkad – 678623.</p> <p>By M/s. Menon & Menon</p> |

This case coming up for final hearing on 30.09.2016 and this Tribunal-cum-Labour Court on 07.10.2016 passed the following:

AWARD

In exercise of the power conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) the Central Government referred the following dispute before this Tribunal for adjudication.

2. The dispute is:

“Whether the action of the management of M/s Instrumentation Ltd., Palakkad in recovering the advances paid to the employees from their terminal benefit is justified or not? If not, what relief employees are entitled to?”

3. After receipt of the reference order No.L-13011/02/2012-IR(DU) dated 03.12.2012, issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear, submit their pleadings and produce documents to substantiate their respective contentions. On receipt of summons, the parties entered appearance through counsel and submitted their pleadings.

4. The contentions in the claim statement filed by the union No.1 in brief are as follows:-

The two unions in this reference represent all the employees in the workmen category under the management. The management is a company fully owned by the Government of India, functioning under the Department of Heavy Industries. The Instrumentation Limited at Kanjikode, Palakkad is a separate unit for all practical purposes. It has its own standing orders and long term settlements regarding payment of wages and other service conditions of its employees. The long term settlement entered into between the management and the trade unions in the year 1987 came to an end on 31.12.1991. Even though the trade unions submitted representation before the management for long term

settlement, it was delayed indefinitely. The wage settlement for the period from 01.01.1992 to 31.12.1998, could be signed only on 26.06.1999. As per the settlement the pay of the workers were revised and it was implemented with immediate effect. At that time it was mutually agreed that the issue regarding payment of arrears for the period from 01.01.1992 to 31.12.1998 will be discussed and settled between the management and the unions subsequently.

5. In view of the pendency for the demand for wage revision from 01.01.1992, the management paid advances to the workmen anticipating the pay revision and other service benefits due to the employees from 01.01.1992. The unions submitted the charter of demands for the period from 01.01.1997 before the management in the year 2000. The settlement relating to the period of ten years commencing from 01.01.1997 to 31.12.2006 could be arrived at only on 03.08.2009. In that settlement it is stipulated that the pay revision benefit to the employees will be paid and the arrears will be paid only from 23.02.2009 as an immediate relief. In relation to the advances and ad hoc payment effected against anticipated pay revision, the settlement dated 03.08.2009 reads as follows:

“13. That regarding adjustment of all the advances/ad hoc payments against 1992 pay revisions given to the employees of the company shall be discussed between Management and Unions separately.

14. That the arrears against the pay revision, including all fringe benefits, effective from 1.1.1997 to 22-2-2009 shall be discussed and decided between the Management and Unions separately.”

6. The management paid advances to the workmen to achieve production turnover/targets and to motivate the employees for gaining the goal of the company by paying advance against incentive/adhoc. Advances were paid in the name of flood relief. It was paid without any request by the individual employees or trade unions. The workmen were made to understand by the management that the amounts so paid will be adjusted against the amount due to them on account of the arrears of pay revision/incentive.

7. The advance payment was made to the workmen in order to overcome the financial difficulties faced by them as a result of the undue delay in the wage revision. In fact the cost of living during the period from 1991 to 2009 was increased considerably and the advance received by the workmen could wipe off only a portion of the increase in the cost of living during that period. The main reason stated by the management for the delay in implementing the long term settlements was financial difficulty. In fact the Kanjikode unit of the management was always a profit making unit but the profit made by this unit was wiped off due to the loss occasioned by the other unit in Kota, Rajasthan.

8. In both the long term settlements it is clearly stated that the adjustment of advances/ad hoc payments and the disbursement of arrears of pay revision including all fringe benefits shall be decided through discussion between the management and the unions separately. The wage arrears consequent to the two long term settlements referred earlier are much higher than the advance/ad hoc payments made to the workmen by the management. Without settling the issue of disbursement of arrears of pay consequent to wage revision, the management unilaterally decided and began to recover the advance/ad hoc payments from the terminal benefits to the workmen on their superannuation/acceptance of VRS. This decision of the management was implemented w.e.f. 01.09.2009 as per an order issued by the Additional General Manager(CHQ). The decision of the management to recover/ad hoc payments without settling the issue of disbursement of arrears of wage revision, is illegal and unsustainable. Till 01.09.2009 the management released the terminal benefits to the workmen after obtaining an undertaking from the employees regarding the outstanding amount due from them under the head of advances/ad hoc payments on their retirement. From 01.09.2009 the management altered their stand and began to recover the amount from the terminal benefits payable to the employees. Without settling the issue of disbursement of arrears of wage revision in accordance with the terms in the long term settlements, the unilateral decision by the management to recover the amount from the employees from and out of their terminal benefits is illegal and unjustifiable.

9. The period stipulated as per the settlement dated 03.08.2009 has already been expired on 31.12.2006. Now the new long term settlement is overdue. The trade unions have already submitted their charter of demands. Therefore union No.1 has requested to pass an award to the effect that the recovery of advance/ad hoc payment made to the workmen shall not be withheld or recovered from and out of the terminal benefits of the retiring employees/employees opting VRS on the ground that the recovery is illegal and to direct the management to pay the amount so deducted to the respective employees with interest thereof.

10. The contentions in the claim statement filed by the union No.2 in brief are as follows:—

Union No.2 has raised the similar contentions as that of union No.1. They sought the same relief as requested by union No.1.

11. The contentions in the written statement filed on behalf of the management against the claim statements filed by union Nos.1 & 2 in brief are as follows:—

They have denied all the averments in the claim statements filed by the union Nos.1 and 2 except those that are specifically admitted. The management has stated that they have not recovered the advance amount from and out of the

terminal benefits of the retiring employees. The dispute referred for adjudication will not come under the purview of Section 2(k) of the Industrial Disputes Act, 1947.

12. Without prejudice to the contentions raised above the management has stated that the Instrumentation Limited, Palakkad unit is engaged in the manufacture and sale of control valves of different sizes and specifications for industrial use. The net worth of Instrumentation Limited eroded. Consequently the company was referred before the Board for Industrial Finance and Reconstruction (BIFR) under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985. The BIFR has declared the company as a sick unit w.e.f.19.01.1994. The unit at Palakkad is having 157 workmen. The workmen are represented by the two unions. The service conditions, including pay and other benefits of the workmen are governed by the terms and conditions in the settlements entered into between the management and the unions from time to time. It is in line with the unit at Kota.

13. The period stipulated as per the settlement entered on 23.04.1990 between the management and the unions for revision of pay and benefits of the employees expired on 30.09.1992. The next settlement for the period from 01.01.1992 to 31.12.1996 was signed in June, 1999. Without any negotiation and signing of settlement, the management paid recoverable advances to the employees against pay revision benefits. By the time the pay revision for the period from 01.01.1992 to 31.12.1996 was settled, the pay revision for the period from 01.01.1997 became due. In the meantime the management unit was declared as a “sick company” and the scheme for rehabilitation was pending consideration before BIFR. Therefore no effective discussion between the management and the unions could be held so as to arrive at a settlement regarding the pay revision with effect from January, 1997. The settlement revising the pay and benefits from 01.01.1997 was arrived at and signed between the management and the unions on 03.08.2009.

14. The management had given recoverable advances pending negotiation and execution of agreement revising the pay and benefits to its employees from January, 1997. As per letter No.5(2)/2000-PE-VIII dated 23.02.2009, the Government of India approved the revival package of Instrumentation Ltd. and permission was granted for implementation of DPEs 1997 pay scale in the company from and out of their own resources prospectively. On the basis of which the 1997 pay revision settlement was implemented prospectively w.e.f. 23.02.2009. In view of this; the 1997 pay revision arrears for the period from 01.01.1997 to 22.02.2009 are not due to any employees who were or are on the rolls of the company. This aspect was intimated to the unions as per letter No.ILP/P&A/03/09 dated 24.11.2009.

15. The management disbursed the arrears consequent to the 1992 pay revision to the widows of former employees, to the employees who had retired from service and to the employees who left service under Voluntary Retirement Scheme in a phased manner. In respect of the workmen who are serving in the company, arrears consequent to pay revision was payable considering the fact that the amount paid to them as recoverable advance from time to time was higher than the arrear amount payable to them consequent to 1992 pay revision. At the time of retirement, benefits such as Provident Fund, Gratuity and last drawn salary are paid in full to the employees. The amounts due towards settling advance, earned leave encashment are deposited with the Assistant Labour Commissioner(Central), Ernakulam in accordance with the terms and conditions in the agreement dated 12.04.2012 entered into between the management and the unions.

16. In view of the pendency of the dispute raised by the unions the management even though issued notice to the employees after retirement requesting to pay the amount due to the management without delay, no serious steps were taken by the management. The amount paid as recoverable advance was recovered from the former General Manager – Shri.N.K. Srivatsava who retired from service on 28.02.2011 and also from the Additional General Manager – Shri. R. S. Yugal who retired from service on 31.03.2012. As per the order passed by the Hon’ble High Court in RP No. 807/2010 in WP(C) No.16697/2010, the amount paid as advance to Shri Vijayan K. Jose who opted for VRS was withheld. The contention of the unions that the unit at Palakkad is a profit making venture right from the beginning has nothing to do with the merits of this case. The advance payment was effected to the workmen only as a recoverable one. The 1997 pay revision was implemented prospectively and hence there is no arrears payable to the employees consequent to that pay revision. The contention of the unions that the management unilaterally began to recover the advances/ad hoc payments from and out of the terminal benefits payable to the workmen on their superannuation, is without any merit. The management accepted bonds from few employees in accordance with the terms of the judgment/order passed by the Hon’ble High Court in the Writ Petitions filed by them. The management has stated that the unions are not entitled to any relief as per this reference. They have requested to uphold their contentions.

17. After filing written statement by the management, union No.2 filed rejoinder reaffirming the contentions in the claim statements filed by the two unions.

18. After filing rejoinder by union No.2, the matter was posted for taking steps and production of documents. Both sides have produced documents. No oral evidence has been adduced on behalf of the unions and that of the management. Exts.W1 to W22 are the documents marked on behalf of the unions. Exts.M1 to M12 are the documents marked on behalf of the management. Heard both sides.

19. The points arising for consideration are:

“(i) *Whether there is any justifiable ground or reason for the management of M/s. Instrumentation Limited, Palakkad for recovering the advances paid to the employees from and out of their terminal benefits?*

(ii) *To what relief the employees are entitled?”*

20. Point No.(i):—The dispute referred for adjudication is:

“Whether the action of the management of M/s. Instrumentation Ltd., Palakkad in recovering the advances paid to the employees from their terminal benefit is justified or not? If not, what relief employees are entitled to?”

It is admitted that the management – M/s. Instrumentation Limited, Palakkad is a company fully owned by the Government of India and is functioning under the Department of Heavy Industries, Union of India. The registered office of the company is situated at Kota, Rajasthan. The company has two units, one at Kota in Rajasthan and the other at Kanjikode West, Palakkad, Kerala. The unions have stated that ever since the beginning of the company the unit of M/s.Instrumentation Limited at Kanjikode is a profit making venture. According to them the unit at Kanjikode, Palakkad is a separate and independent entity for all practical purposes and it has got its own standing orders and long term settlements relating to payment of wages and other service conditions to its employees. It is stated that the long term settlement arrived at between the management and the trade unions in 1987 expired on 31.12.1991. In the meantime and thereafter the unions repeatedly requested the management to have a long term settlement for the period from 01.01.1992. It is stated that the long term settlement for the period from 01.01.1992 to 31.12.1996 could be signed only on 26.06.1999. As per that settlement the pay of the workers were revised and it was implemented with immediate effect and thereby disbursing the arrears of salary with effect from 01.01.1999. In that settlement it is specifically stated that that the payment of arrears of salary including the value of fringe benefits for the period from 01.01.1992 to 31.12.1998 would be discussed between the management and the unions later. In view of the pendency of the demand for wage revision from 01.01.1992 the management paid advances to the workmen. It is stated that the settlement in relation to the charter of demands submitted by the unions for the period from 01.01.1997 could be arrived at only on 03.08.2009 covering a period of ten years from 01.01.1997 to 31.12.2006. In that settlement it is stipulated that the employees will be paid the benefit of pay revision and its arrears only from 23.02.2009 as an immediate relief. Regarding the advances and ad hoc payment against pay revisions, the settlement dated 03.08.2009 reads as follows:—

“13. *That regarding adjustment of all the advances/ad hoc payments against 1992 pay revision given to the employees of the company shall be discussed between Management and Unions separately.*

14. *That the arrears against the pay revision, including all fringe benefits, effective from 1.1.1997 to 22.2.2009 shall be discussed and decided between the Management and Unions separately.”*

21. According to the unions the management paid advances/ad hoc payment to the workmen to achieve production turnover/targets and to motivate the employees to achieve the company's goal. It is stated that the advance payment was effected to the workmen in order to overcome the financial difficulties faced by them consequent to the undue delay in wage revision. The unions have specifically stated that there was considerable increase in the cost of living during the period from 1991 to 2009 and the advance received by the workmen could wipe off only a portion of the increase in the cost of living during that period. The unions have stated that in the long term settlements entered into between the management and the unions it is clearly stated that the adjustment of advances/ad hoc payments and the disbursement of arrears of pay revision and the fringe benefits shall be discussed and decided between the management and the unions separately. The unions have stated that without settling the issue of the disbursement of arrears of pay consequent to wage revision, the management unilaterally decided and began to recover the advances/ad hoc payments from the terminal benefits of the workmen on their superannuation/ acceptance of VRS. According to the unions, in view of the clear stipulation in the long term settlements, without settling the issue of disbursement of arrears of wage revision, the decision of the management to recover the advances/ad hoc payments, is illegal and unsustainable. It is stated that the period stipulated as per the settlement dated 03.08.2009 has already expired on 31.12.2006 and now the new long term settlement is overdue. Even though the trade unions have submitted their charter of demands well in advance the management has not taken any effective steps for settling the demands of the workmen. The unions have requested to direct the management not to recover the advances/ad hoc payments from and out of the terminal benefits of the retiring employees or employees opting for VRS on the ground that such a decision by the management is illegal, unjust and improper.

22. The management has refuted the claim put forward by the unions. They have stated that they paid recoverable advances to the employees against pay revision benefits pending negotiation and signing of settlement. It is stated that the management company was declared as a “sick company” and scheme for rehabilitation was pending consideration

before the Board for Industrial Finance and Reconstruction (BIFR). According to the management no effective discussion between them and the unions could be held to arrive at a settlement regarding pay revision with effect from January, 1997 for the reason that the company was declared as a “sick unit” and rehabilitation proceedings are pending before the BIFR. They would further state that the 1997 pay revision was implemented w.e.f.23.02.2009 only and hence there will be no arrears payable to the workmen. It is stated that the amounts due towards the settlement of advance, earned leave encashment are deposited with the Assistant Labour Commissioner(Central), Ernakulam in accordance with the conditions in the agreement dated 12.04.2012 executed between the management and the unions. The management has further stated that they have already recovered the recoverable advance paid to Shri. N. K. Srivatsava former General Manager who retired on 28.02.2011 and from Shri. R. S. Yugal, former Additional General Manager who retired from service on 31.03.2012. They would also state that as per the order passed by the Hon’ble High Court in RP No. 807/2010 in WP(C) No.16697/2010, the advance paid to Shri. Vijayan K. Jose who opted for VRS was withheld. The management has denied the contentions of the unions that the pay arrears are much higher than the advance for ad hoc payments effected to the employees. They have requested to uphold their contentions.

23. Ext.W3 is the copy of the memorandum of settlement dated 03.08.2009 between the management and the unions. Clause 1.1 of Ext.W3 is to the effect that the pay revision will be effected for a period ten years w.e.f.01.01.1997 to 31.12.2006 and thereafter will continue to be in force till the next pay revision takes place. Clause 1.2 in Ext.W3 is to the effect that as an immediate relief the employees have been paid the benefits of the pay revision and its arrears from 23.02.2009 along with the salary of June, 2009. Clauses 13 and 14 in Ext.W3 settlement read as follows:—

“13. ADJUSTABLE AD HOC PAYMENT/ADVANCES AND RECOVERABLE ADVANCES

That regarding adjustment of all the Advances/Ad-hoc Payments against 1992 pay revision given to the employees of the Company shall be discussed between Management and Union separately.

14. *That the arrears against the pay revision, including all fringe benefits, effective from 01.01.1997 to 22.02.2009 shall be discussed and decided between the Management and Unions separately.”*

24. Ext.W4 is the Circular dated 13.10.2009, signed by the Additional General Manager(CHQ) to all Heads to the effect that it has been decided by the management that the recovery of outstanding advances will be made from the employees leaving the company instead of taking undertaking of outstanding amount of such advance and that will be implemented w.e.f. 01.09.2009. It is stated that on the basis of Ext.W4 Circular the management began to recover the advances/ad hoc payments from and out of the terminal benefits payable to the employees who retired from service/who opted for VRS. According to the unions the decision of the management to recover the advances paid to the employees without finally settling the demands in accordance with the Clauses 13 and 14 of Ext.W3 settlement, is illegal and unsustainable. The contention of the management is that the Board for Industrial Finance and Reconstruction (BIFR) has declared the unit as a “sick company” and therefore steps for rehabilitation are pending before the Board and as such their decision to recover the amount from and out of terminal benefits payable to retired employees/employees opted for VRS is just and legal.

25. The learned counsel appearing for the unions submitted that the unions have submitted charter of demands well in advance and the settlement relating to the payment of wages and arrears is unduly delayed by the management for one reason or other. The learned counsel submitted that there is no justification on the part of the management in recovering the advance/ad hoc payments without finally settling the dispute. The issue is left open as per clauses 13 and 14 in Ext.W3 settlement. The learned counsel for the management submitted that the management is justified in the recovery of advance/ad hoc payments from and out of the terminal benefits payable to the employees who retired from service/who opted for VRS.

26. The parties to this proceedings are governed by the terms and conditions in Ext.W3 settlement entered into between the management on the one hand and the unions on the other. Clauses 13 and 14 specifically provides that the adjustments of all the advances/ad hoc payments against 1992 pay revision given to the employees of the company shall be discussed between the management and the union separately. So also regarding the arrears of pay revision it is specifically stated that the benefits from 01.01.1997 to 22.02.2009 shall be discussed and decided between the management and the unions separately. In view of the specific clauses in Ext.W3 settlement there is no justification on the part of the management to recover the advances/ad hoc payments made as an interim measure to the employees. It can also be seen that the employees have made their earnest effort to ensure that the maximum productivity is attained so as to gain profit to the management company. In such circumstance there is no justification on the part of the management to deduct the advances/ad hoc payments made to the employees from and out of their terminal benefits without settling the issue bilaterally. The unilateral action on the part of the management to recover the advances paid to the employees for which they are legally entitled for the work done by them during the period from 01.01.1997 to 22.02.2009, is unjust, illegal and improper. Therefore it is held that the action of the management of Instrumentation Limited, Palakkad in recovering the advances paid to the employees from their terminal benefits is unjust, illegal and improper. It follows that there is no justification on the part of the management to recover the advances/ad hoc

payment effected to its employees without finally settling the issue in accordance with the terms and conditions in clauses 13 and 14 of Ext.W3 settlement. Hence the point for consideration is answered in favour of the unions and against the management.

27. **Point No.(ii):**—In view of the finding in Point No. (i) the management is not justified in recovering the advances paid to the employees from and out of their terminal benefits. It follows that the unions are entitled to the relief claimed. The point is answered accordingly.

28. In the result an award is passed holding that the action of the management of M/s. Instrumentation Limited, Palakkad in recovering the advances paid to the employees from and out of their terminal benefits is unjust, illegal and improper. The employees are entitled to the consequential benefits thereof.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 07th day of October, 2016.

SASIDHARAN K., Presiding Officer

APPENDIX

Witness for the unions

NIL

Witness for the management

NIL

Exhibits for the 2nd union

- | | | |
|----|---|---|
| W1 | - | Copy of the Memorandum of Settlement dated 26.06.1999 entered into between the representatives of the unions and the management of Instrumentation Limited, Palakkad. |
| W2 | - | Copy of the Circular bearing No.ILP/ADMN/II-21/2008-09 dated 28.06.2008 issued by the Sr. Personnel Officer, (P&A Division), Instrumentation Limited, Palakkad. |
| W3 | - | Copy of the Memorandum of Settlement dated 03.08.2009 entered into between the unions and the management of Instrumentation Limited, Palakkad before the Conciliation Officer-cum-District Labour Officer, Palakkad. |
| W4 | - | Copy of the Circular bearing No.IL/CPD-1/135/P & R/2009-10 dated 13.10.2009 issued by the Addl. General Manager(CHQ), CPD(Policy & Rules Section), Instrumentation Limited, Kota. |
| W5 | - | Copy of the Minutes of discussion held on 02.04.2011 at ILP between ILP management, Instrumentation Employees Union (INTUC) and Instrumentation Workers Union (CITU) before the Regional Labour Commissioner (Central), Cochin. |
| W6 | - | Copy of the Balance Sheet as at 31.03.2012; Copy of the Statement of Profit and Loss for the year ended 31.03.2012; Copy of the Cash flow statement for the year ended 31.03.2012; Copy of Significant accounting policies; Copy of the Notes on financial statements for the year ended 31.03.2012; Copy of Township Expenses and social overheads for the year 2011-2012 and Capital Expenditure on Township and Social amenities as at 31.03.2012 in respect of Instrumentation Limited, Palakkad |
| W7 | - | Copy of the Balance Sheet as at 31.03.2013; Copy of the Statement of Profit and Loss for the year ended 31.03.2013; Copy of the Cash flow statement for the year ended 31.03.2013; Copy of Significant accounting policies; Copy of the Notes on financial statements for the year ended 31.03.2013; Copy of Township Expenses and social overheads for the year 2012-2013 and Capital Expenditure on Township and social amenities as at 31.03.2013 in respect of Instrumentation Limited, Palakkad. |
| W8 | - | Copy of the reply letter No.ILP/P&A/RTI/2013 dated 09.10.2013 issued by the Manager(Comml) & Asst. Public Information Officer, Instrumentation Limited, Kanjikode West, Palakkad to Shri. R. Vinod Kumar, General Secretary, Instrumentation Workers Union (CITU), Kanjikode West, Palakkad. |
| W9 | - | Copy of advances paid during various years by the management. |

Exhibits for the 1st union

- | | | |
|-----|---|--|
| W10 | - | True copy of the Note bearing No.ILP/Admn/III.08/96 dated 14.08.1996 issued by the Sr. Persl. Officer (P & A Division), Instrumentation Limited, Palakkad. |
|-----|---|--|

- W11 - True copy of the agreement dated 27.08.1997 entered into between the representative of the unions and the management of the Instrumentation Limited, Kanjikode, Palakkad.
- W12 - True copy of the draft Circular No.ILP/Admn./8.14/99 dated 08.02.1999 issued by the Dy. Manager(P & A), Instrumentation Limited, Palakkad.
- W13 - True copy of the Circular No.ILP/Admn./III.08/99 dated 10.08.99 issued by the Manager(P & A), Instrumentation Limited, Palakkad.
- W14 - True copy of the Circular bearing No.IL/CPD-1/135/P & R/2000-01 dated 02.08.2002 issued by the Dy. General Manager(P&A), CPD(Policy & Rules Section), Instrumentation Limited, Kota.
- W15 - True copy of the Circular bearing No.ILP/ADMN/III.08/2004 dated 20.08.2004 issued by the Dy. General Manager(P&A), P & A Division, Instrumentation Limited, Palakkad.
- W16 - True copy of the Gist of discussions held at Mumbai on 11.04.2007 between the management and the unions.
- W17 - True copy of the Memorandum of Settlement dated 29.02.2008 entered into between the representatives of the management and the unions of Instrumentation Limited, Palakkad.
- W18 - Copy of the Circular bearing No.IL/CPD-1/135/P & R/2009-10 dated 13.10.2009 issued by the Addl. General Manager(CHQ), CPD(Policy & Rules Section), Instrumentation Limited, Kota.
- W19 - Copy of the Memorandum of Settlement dated 29.08.2011 entered into between the representatives of the unions and the management of Instrumentation Limited, Palakkad before the Regional Labour Commissioner(Central), Cochin.
- W20 - Copy of the Memorandum of Settlement dated 12.04.2012 entered into between the representatives of the unions and the management of Instrumentation Limited, Palakkad before the Regional Labour Commissioner(Central), Cochin.
- W21 - True copy of the reply letter No.ILP/P&A/RTI/2013 dated 13.03.2013 addressed to Shri K. E. Padmakumar, Leading Hand, Production Department, Instrumentation Limited, Kanjikode West, Palakkad by the Additional General Manager(P & A) & Asst. Public Information Officer, Instrumentation Limited, Kanjikode West, Palakkad
- W22 - True copy of the reply letter No.ILP/P&A/RTI/2013 dated 09.10.2013 addressed to Shri R. Vinod Kumar, General Secretary, Instrumentation Workers Union (CITU), Kanjikode West, Palakkad by the Manager(Comml) & Asst. Public Information Officer, Instrumentation Limited, Kanjikode West, Palakkad

Exhibits for the management

- M1 - True copy of the Order dated 19.01.1994 in case No.509/93 in respect of M/s.Instrumentation Limited before the members of Bench-I, Board for Industrial and Financial Reconstruction, New Delhi.
- M2 - True copies of the Memorandum of Settlement dated 23.04.1990 entered into at Palghat between the representatives of the management and the unions of Instrumentation Limited, Palakkad and the Memorandum of Settlement dated 11.04.1990 entered into at Kota between the representatives of the management and the unions of Instrumentation Limited, Kota.
- M3 - True copy of the Memorandum of Settlement dated 26.06.1999 entered into between the representatives of the management and the unions of Instrumentation Limited, Palakkad.
- M4 - True copy of the Memorandum of Settlement dated 29.02.2008 entered into between the representatives of the management and the unions of Instrumentation Limited, Palakkad.
- M5 - True copy of the Memorandum of Settlement dated 03.08.2009 entered into between the unions and the management of Instrumentation Limited, Palakkad before the Conciliation Officer-cum-District Labour Officer, Palakkad.
- M6 - True copy of the letter No.5(2)/2000-PE-VIII dated 23.02.2009 issued by the Director, P.E. VIII Section, Department of Heavy Industry, Ministry of Heavy Industry & Public Enterprises, New Delhi to the Chairman-cum-Managing Director, Instrumentation Limited, Kota – 324005 (Raj).

- M7 - True copy of the letter No.ILP/P&A/03/09 dated 24.11.2009 issued by the Sr. Personnel Officer, Instrumentation Limited, Kanjikode West, Palakkad to the General Secretary, Instrumentation Workers Union, Kanjikode West, Palakkad.
- M8 - True copy of the Memorandum of Settlement dated 12.04.2012 entered into at Ernakulam between the representatives of the management and the unions of Instrumentation Limited, Palakkad before the Regional Labour Commissioner(Central), Cochin under Section 12(3) of the Industrial Disputes Act, 1947.
- M9 - True copy of the statement dated 06.06.2014 and a Demand Draft bearing No.442218 dated 05.06.2014 drawn in favour of the Assistant Labour Commissioner (Central) for an amount of ₹2,38,772.54.
- M10 - True copy of the list of ex-employees dated 10.04.2015 and a Demand Draft bearing No.873881 dated 09.04.2015 drawn in favour of the Assistant Labour Commissioner (Central) for an amount of ₹3,00,214.93.
- M11 - True copy of the Note No.IL/CPD-I/135/P&R/2010-11 dated 18.04.2011 issued by the AGM(CHQ), CPD (Policy & Rules Section), Instrumentation Limited, Kota to the AGM(PU)/AGM(P&A)-PU.
- M12 - Statement showing the advance outstanding break up of the ex-employees of (P&A Division), Instrumentation Limited, Palakkad.

नई दिल्ली, 1 मार्च, 2017

का.आ. 600.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जिला अभियंता (पोस्ट एंड टेलीग्राफ) एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 03/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04.01.2017 को प्राप्त हुआ था।

[सं. एल-40012/534/2000-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 600.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 03/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in Annexure, in the industrial dispute between the employers in relation to the Distt. Engineer (Post & Telegraph and their workman, which was received by the Central Government on 04.01.2017.

[No. L-40012/534/2000-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

सी.जी.आई.टी. प्रकरण सं. 3 / 2006

भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. एल- 40012/534/2000-आईआर (डीयू) दिनांक 5/12/2005

Shri Kanhaiya Lal S/o. Shri Mohan Lal,
C/o Jt. General Secy, Hind Mazdoor Sabha,
Bengali Colony, Chawani,
Distt.- Kota (Rajasthan)

V/s.

1. Distt. Engineer (Post & Telegraph),
Telecom.,
Bundi,
Rajasthan

प्रार्थी की तरफ से : श्री राजेन्द्र सिंह — एडवोकेट

अप्रार्थी की तरफ से : श्री बहमानन्द सन्दु — एडवोकेट

: पंचाट :

दिनांक : 29. 11. 2016

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 की उपधारा 1 खण्ड (घ) के अन्तर्गत दिनांक 5.12.2005 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :-

2. “Whether the management of District Engineer (Post & Telegraph), Telecommunication Department, Bundi, in terminating the Services of Shri Kanhiya Lal w.e.f. 8-5-1997 is just and legal ? If not, to what relief the workman is entitled?”

3. स्टेटमेन्ट ऑफ क्लेम में दिये गये तथ्यों के अनुसार संक्षिप्ततः प्रार्थी श्रमिक का कथन है कि प्रार्थी कन्हैयालाल दूरसंचार जिला अभियन्ता, डाक एवं तार विभाग, बून्दी ने दिनांक 2.9.1994 को पानी भरने, सफाई करने, ऑफिस का कार्य करने व साइड पर कार्य करने हेतु चतुर्थ श्रेणी कर्मचारी के पद पर सेवा में नियोजित किया था।

4. नियोजक ने प्रार्थी को अचानक बिना कोई कारण बताये तथा बिना किसी पूर्व सूचना के दिनांक 8.5.97 से नौकरी से हटा दिया जो अवैध है। प्रार्थी को नौकरी से हटाये जाने के समय नियोजक ने यह कहा था कि कुछ समय बाद काम पर रख लेगे। इसके बाद प्रार्थी ने नियोजक के यहाँ नौकरी हेतु काफी चक्कर लगाये परन्तु नियोजक आज कल करके टालता रहा। अन्त में प्रार्थी ने दिनांक 11.1.2000 को नियोजक को एक प्रार्थना-पत्र ड्यूटी पर लिये जाने हेतु प्रेषित किया तथा प्रार्थी के पत्र की प्राप्ति के तीन दिन के अन्दर ड्यूटी पर नहीं लिये जाने पर कानूनी कार्यवाही करने के सम्बन्ध में सूचित किया। प्रार्थी का भेजा पत्र नियोजक को प्राप्त हो गया परन्तु नियोजक ने प्रार्थी के पत्र का कोई उत्तर नहीं दिया एवं प्रार्थी को ड्यूटी पर भी नहीं लिया।

5. आगे प्रार्थी का कथन है कि प्रार्थी ने नियोजक के यहाँ 2.9.94 से दिनांक 7.9.97 तक निरन्तर कार्य किया है तथा इस अवधि में 240 दिन से अधिक समय तक कार्य किया है तथा प्रार्थी का विवाद औद्योगिक विवाद अधिनियम 1947 की धारा 2 (ओ. ओ.) के अन्तर्गत “छंटनी” की परिभाषा में आता है। नियोजक ने प्रार्थी को नौकरी से निकाले जाने के पूर्व धारा 25 एफ के प्राविधान के अनुसार एक माह की नोटिस नहीं दी और न इसके बदले एक माह की अग्रिम वेतन का भुगतान किया। नियोजक ने सेवामुक्त करने के पूर्व “छंटनी” का मुआवजा भी नहीं दिया और न ही देने का कोई प्रस्ताव किया।

6. प्रार्थी को सेवा से निकालने के बाद विपक्षी ने कस्तुरा आदि कई लोगों को सेवा में नियोजित कर लिया है लेकिन प्रार्थी को नियोजन हेतु कोई अवसर नहीं प्रदान किया है जो औद्योगिक विवाद अधिनियम की धारा 25एच के साथ पठित औद्योगिक विवाद नियम (केन्द्रीय) के नियम 78 के प्राविधान का उल्लंघन है तथा नियोजक का यह कृत्य “अनुचित श्रम व्यवहार” की परिभाषा में आता है। अतः प्रार्थी ने प्रार्थना की है कि उसे विपक्षी के नियोजन में पिछले सम्पूर्ण वेतन सहित समस्त पिछले लाभों के साथ सेवा में पुनर्स्थापित कराया जाय एवं खर्चा मुकदमा दिलाया जाय।

7. याचिका के विरुद्ध जवाब में विपक्ष ने याचिका के समस्त कथन को अस्वीकार किया है और कहा है कि याची को विपक्ष की तरफ से चतुर्थ श्रेणी कर्मचारी के पद पर कोई नियुक्ति नहीं दी गयी। प्रार्थी से संविदा के आधार पर पानी की मटकी मात्र भरवायी जाती थी। यह भी कहा गया है कि प्रार्थी को नौकरी पर रखा ही नहीं गया इसलिए उसे नौकरी से हटाये जाने का कोई कारण नहीं है एवं विपक्ष के विरुद्ध कोई वाद कारण उत्पन्न नहीं होता है। अतः प्रार्थी की याचिका विशेष हर्जे के साथ खारिज की जाय।

8. याचिका के समर्थन में याची की तरफ से साक्ष्य में शपथ-पत्र दिनांकित 16.9.2010 प्रस्तुत है जिसके साथ प्रार्थी को सेवा में लेने से सम्बन्धित पत्र दिनांक 11.1.2000 प्रदर्श-1, तत्सम्बन्धित रजिस्ट्री रसीद प्रदर्श-2 तथा पावती प्रदर्श-3 एवं सहायक श्रम आयुक्त केन्द्रीय कोटा, को विपक्षी द्वारा पुनः सेवा में नियोजन हेतु भेजे गये पत्र दिनांक 28.12.2000 की प्रति प्रदर्श-4 संलग्न है।

9. विपक्ष की तरफ से कोई प्रलेखीय या मौखिक साक्ष्य नहीं प्रस्तुत किया गया है। विपक्ष ने याची की शपथ-पत्र के विरुद्ध उसकी प्रतिपरीक्षा भी नहीं की है।

10. मैं मैंने प्रार्थी श्री कन्हैयालाल के विद्वान प्रतिनिधि की एकपक्षीय बहस सुनी तथा पत्रावली का सम्यक् अवलोकन किया।

निष्कर्ष

11. पत्रावली में साक्ष्य की कार्यवाही के सम्बन्ध में संक्षिप्ततः उल्लेखनीय है कि पत्रावली में उभयपक्ष के साक्ष्य की कार्यवाही दिनांक 9.12.14 से प्रारम्भ की गयी। क्रमशः दिनांक 9.12.14, 25.2.14, एवं 6.5.15 को याची कन्हैयालाल की विपक्ष द्वारा प्रतिपरीक्षा नहीं हो सकी अतः अगली तिथि 25.6.15 याची की प्रतिपरीक्षा हेतु नियत की गयी। दिनांक 6.5.15 को विपक्ष अनुपस्थित था जिस दिन याची की प्रतिपरीक्षा होनी थी परन्तु याची के विद्वान प्रतिनिधि ने बताया कि विपक्ष के विद्वान प्रतिनिधि आज नहीं आएंगे एवं जून में उन्होंने तारीख चाही है अतः 25.6.15 तारीख याची की प्रतिपरीक्षा हेतु नियत की गयी थी।

12. दिनांक 25.6.15 को विपक्ष की तरफ से कोई उपस्थित नहीं रहा। प्रार्थी कन्हैयालाल अपने विद्वान प्रतिनिधि के साथ उपस्थित आये। विपक्ष की तरफ से किसी के उपस्थित न आने तथा प्रतिपरीक्षा न करने के कारण विपक्ष द्वारा याची की प्रतिपरीक्षा का अवसर समाप्त किया गया तथा 9.9.15 विपक्ष साक्ष्य हेतु तिथि नियत की गयी। दिनांक 9.9.15 को विपक्ष अनुपस्थित तथा याची पक्ष उपस्थित रहा। न्यायहित में एक अवसर प्रदान कर विपक्ष के साक्ष्य हेतु एक अवसर प्रदान कर कार्यवाही मुलतवी की गयी और अगली तिथि 19.11.15 नियत की गयी परन्तु 19.11.15 को भी विपक्ष अनुपस्थित और याची पक्ष उपस्थित था। अन्तिम अवसर पुनः न्यायाधिकरण द्वारा स्वयं प्रदान कर अगली तिथि 8.12.15 विपक्ष के साक्ष्य हेतु नियत की गयी। दिनांक 8.12.16 को उभयपक्ष अनुपस्थित रहे अतः दिनांक 6.1.16 विपक्ष के साक्ष्य हेतु तिथि नियत की गयी। दिनांक 8.12.15 को आदेशोपरान्त विपक्ष उपस्थित आया जिसे 6.1.16 की तिथि एवं नियत कार्यवाही से अवगत कराया गया।

13. दिनांक 6.1.16 को विद्वान अधिवक्तागण/प्रतिनिधिगण न्यायिक कार्य से विरत थे। याची पक्ष उपस्थित तथा विपक्ष अनुपस्थित था अतः 17.3.16 अगली तिथि विपक्ष के साक्ष्य हेतु नियत की गयी। दिनांक 17.3.16 को भी विपक्ष अनुपस्थित था अतः विपक्ष को न्यायहित में अन्तिम अवसर प्रदान करते हुए 18.5.16 तिथि विपक्षी साक्ष्य के लिए नियत की गयी और दिनांक 18.5.16 को पुनः एक अवसर प्रदान कर 17.11.16 तिथि विपक्षी साक्ष्य के लिए नियत की गयी परन्तु दिनांक 17.11.16 को याची पक्ष उपस्थित था और विपक्ष पुनः अनुपस्थित था अतः विपक्ष के साक्ष्य का अवसर समाप्त किया गया तथा एकपक्षीय कार्यवाही करने का आदेश पारित करते हुए 28.11.16 को पत्रावली याची की एकपक्षीय बहस के लिए नियत की गयी।

14. साक्ष्य की उक्त स्थिति से स्पष्ट है कि याची की साक्ष्य में शपथ-पत्र पर याची की प्रतिपरीक्षा विपक्ष द्वारा नहीं की गयी है और विपक्ष द्वारा अपना साक्ष्य भी नहीं प्रस्तुत किया गया है।

15. याची के विद्वान प्रतिनिधि ने एकपक्षीय बहस में उल्लेख किया है कि याची ने अपनी याचिका के समर्थन में शपथ-पत्र प्रस्तुत किया है जिस पर विपक्ष ने प्रतिपरीक्षा नहीं की है अतः याची का कथन सिद्ध माना जाना चाहिए और उसे याचित अनुतोष प्रदान होना चाहिए।

16. उक्त बहस तथा याचित अनुतोष के सन्दर्भ में यहां यह उल्लेखनीय है कि याचिका में कथित तथ्यों को सिद्ध करने का भार प्रथमतः याची पक्ष पर है। विपक्ष ने कोई साक्ष्य प्रलेखीय या मौखिक नहीं प्रस्तुत किया है परन्तु विपक्ष की इस कमी से याची पक्ष को कोई लाभ प्रदान नहीं किया जा सकता है। विपक्ष ने वादोत्तर में उल्लेख किया है कि याची से संविदा पर मात्र पानी की मटकी भरवायी जाती थी परन्तु उसे चतुर्थ श्रेणी कर्मचारी के पद पर कोई नियुक्ति नहीं दी गयी थी। इस कथन के विरुद्ध याची पक्ष की तरफ से कोई प्रत्युत्तर नहीं है। दिनांक 24.4.14 को याची पक्ष की तरफ से कहा गया है कि उनकी तरफ से कोई प्रत्युत्तर नहीं प्रस्तुत होना है, अतः विपक्ष द्वारा याची को चतुर्थ श्रेणी कर्मचारी के पद पर नियुक्ति दिये जाने के तथ्य को सिद्ध करने का भार याची पक्ष पर है। याची ने कोई नियुक्ति पत्र नहीं प्रस्तुत किया है।

17. जहाँ तक धारा 25एफ औद्योगिक विवाद अधिनियम के उल्लंघन का प्रश्न है इसके लिए याची को प्रथमतः यह सिद्ध करना आवश्यक है कि सेवामुक्ति की तिथि 8.5.97 के ठीक पूर्व याची ने एक कलेंडर वर्ष में निरन्तर 240 दिन की सेवा की है। इस सम्बन्ध में याची ने वेतन भुगतान का विवरण अथवा उपस्थिति से सम्बन्धित विवरण नहीं प्रस्तुत किया है जिससे यह तथ्य सिद्ध नहीं होता है कि धारा 25एफ का उल्लंघन सिद्ध करने में प्रार्थी सफल है।

18. जहाँ तक धारा 25—एच एवं नियम 78 के उल्लंघन का प्रश्न है यह दोनों प्राविधान छंटनीशुदा कर्मचारी की पुनर्नियुक्ति से सम्बन्धित प्राविधान है जो निम्नवत है :— **“धारा 25—ज. छंटनी किए गए कर्मकारों का पुनः नियोजन —**

जहां कि किन्हीं कर्मकारों की “छंटनी” की जाती है और नियोजक किन्हीं व्यक्तियों को अपने नियोजन में रखने की प्रस्थापना करता है, वहां वह उन छंटनी किए गए कर्मकारों को, जो भारत के नागरिक हैं, ऐसी रीति से, जैसी विहित की जाए, यह अवसर देगा कि पुनः नियोजन के लिए अपने को प्रस्थापित करें और छंटनी किए गए उन कर्मकारों को जो पुनः नियोजन के लिए अपने को प्रस्थापित करें अन्य व्यक्तियों पर अधिमान मिलेगा।”

“नियम 78. छांटे गये कर्मकारों की पुनः नियुक्ति 1. उस तिथि से कम से कम दस दिन पहले, जिस पर रिक्तियां भरी गयी, नियोक्ता उनकी रिक्तियों के वर्णनों को औद्योगिक प्रक्रम के परिसर में सहजदृश्य भाग में सूचना बोर्ड पर लगाने के लिए व्यवस्था करेगा और छंटनी के समय या उसके पश्चात किसी भी समय उसके द्वारा डाक द्वारा उन रिक्तियों की भी सूचना देगा:

परन्तु जहां ऐसी रिक्तियों की संख्या छांटे गये कर्मकारों की संख्या से कम हो, तो ऐसी रिक्तियों की संख्या के दुगुने ऐसे वरिष्ठ कर्मकारों की संख्या पर्याप्त होगी, यदि सूचना नियोक्ता द्वारा व्यक्तिगत रूप से नियम 77 में निर्दिष्ट सूची में छांटे गये वरिष्ठ कर्मकारों को दी जाती हो:

परन्तु और जहां रिक्ति एक महीने से कम अवधि की हो, वहां छांटे गये कर्मकारों को अलग अलग ऐसी रिक्ति की सूचना नियोक्ता को भेजने की कोई बाध्यता नहीं होगी:

परन्तु यह भी कि यदि छांटा गया कर्मकार, नियोक्ता को लिखित में पर्याप्त कारण दर्शाये बिना, इस उप नियम के अधीन नियोक्ता द्वारा उसको भेजी गयी सूचना में विनिर्दिष्ट तिथि या तिथियों पर पुनः नियोजन के लिए उसको प्रस्तावित नहीं करता, तो नियोक्ता उसे रिक्तियों की सूचना नहीं दे सकता, जो किसी अनुगामी अवसर पर भरी जा सकेगी।

2. उप-नियम के प्रावधानों की अनुपालना करने के तुरन्त पश्चात, नियोक्ता भरी जाने वाली रिक्तियों की संख्या और छांटे गये कर्मकारों, जिन्हें सूचना उस उप-नियम के अधीन भेजी गयी, के नामों को औद्योगिक प्रक्रम से जुड़े ट्रेड यूनियनों को भी सूचित करेगा:

परन्तु इस उप-नियम के प्रावधानों की किसी मामले में नियोक्ता द्वारा अनुपालना करने की आवश्यकता नहीं है, जहां सूचना को नियम 77 के अधीन तैयार सूची में उल्लेखित कर्मकारों में से प्रत्येक को भेजी जाती है।”

19. उक्त दोनों प्राविधानों के सम्यक एवं सूक्ष्म अवलोकन से यह स्पष्ट है कि नियोजक द्वारा यदि किन्हीं व्यक्तियों को नियुक्त करने का प्रस्ताव है तो सबसे पहले ऐसी नियुक्ति में छंटनीशुदा कर्मचारी यदि नियुक्ति हेतु अपनी उम्मीदवारी प्रस्तुत करता है तो उसे वरीयता दी जायेगी। नियम 78 नियुक्ति को सूचित करने तथा छंटनीशुदा कर्मियों को नोटिस देने के तरीके का उल्लेख करती है।

20. शपथ-पत्र में तथा याचिका में याची ने कस्तुरा आदि की नियुक्ति का उल्लेख प्रार्थी को सेवामुक्त करने के बाद करने के सम्बन्ध में किया है परन्तु यह तथ्य अभिलेख, किसी नियुक्त व्यक्ति या सहकर्मियों को साक्ष्य में प्रस्तुत कर साबित नहीं किया गया है जबकि विपक्ष ने इस तथ्य से स्पष्ट इन्कार किया है। इस प्रकार मैं इस निष्कर्ष पर हूँ कि याची पक्ष ने धारा 25—एच औद्योगिक विवाद अधिनियम 1947 के प्राविधान का विपक्ष द्वारा उल्लंघन सिद्ध नहीं किया है।

21. प्रार्थी द्वारा साक्ष्य में प्रस्तुत शपथ-पत्र उसके द्वारा याचिका में किये गये कथन की पुनरावृत्ति मात्र है जिसे याचिका में प्रस्तुत किये गये कथन को साबित करने हेतु पर्याप्त साक्ष्य की संज्ञा नहीं दी सकती है। इस सन्दर्भ में माननीय सर्वोच्च न्यायालय द्वारा (2002) 3 S.C.C. 25 Range forest officer V/s S.T. Hadimani के पैरा 3 में दी गयी व्यवस्था उल्लेखनीय है जो निम्नवत् है:—

“16. In our opinion the Tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside.”

22. माननीय सर्वोच्च न्यायालय की उक्त व्यवस्था से स्पष्ट है कि याची की शपथ-पत्र उसी का कथन मात्र है जिसे पर्याप्त साक्ष्य नहीं कहा जा सकता है। उक्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि याची याचिका के कथन सिद्ध नहीं कर सका है।

23. पक्षकारों के अभिवचनों तथा उसके सम्बन्ध में पत्रावली पर उपलब्ध साक्ष्य एवं सम्बन्धित तथ्य एवं परिस्थितियों के सम्यक अवलोकन तथा विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि याची पक्ष यह सिद्ध करने में असफल है कि विपक्षी प्रबन्धन द्वारा दिनांक 08.5.97 से याची श्री कन्हैया लाल की सेवा समाप्ति अनुचित एवं अवैध है। याची की याचिका याचित अनुतोष हेतु तदनुसार खारिज की जाती है। न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 1 मार्च, 2017

का.आ. 601.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एरिया मैनेजर, रिलायंस एचआर सर्विसेज प्राइवेट लिमिटेड एवं उनके कर्मचारी के प्रबंधन के संबंधित नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 20/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-40012/11/2015-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 601.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 20/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in Annexure, in the industrial dispute between the employers in relation to the Area Manager, Reliance HR Services Pvt. Ltd. and their workman, which was received by the Central Government on 30.11.2016.

[No. L-40012/11/2015-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

सी.जी.आई.टी. प्रकरण सं. 20/2015

भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. एल- 40012/11/2015—आईआर (डीयू) दिनांक 09/03/2015

Shri Jugal Kishore Sharma S/o Bhagirathmal Sharma,
R/o Flat No.613, LIG Block, Sec-29,
Pratap Apartment, Pratap Nagar,
Sanganer,
Jaipur - 302029 Raj.

V/s

1. The Area Manager,
Reliance HR Services Pvt. Ltd.,
D-69, S.P. Marg, C-Scheme,
Jaipur- 302001 (Rajasthan)
2. The HR Head,
Reliance Communication Ltd.,
D-69, S.P. Marg, C-Scheme,
Jaipur- 302001 (Rajasthan)

प्रार्थी की तरफ से : श्री जुगल किशोर शर्मा — स्वयं

अप्रार्थी की तरफ से : श्री संजय श्रीवास्तव — एडवोकेट

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दिनांक : 24-10-2016

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 उपधारा 1 खण्ड (घ) के अन्तर्गत दिनांक 09/03/2015 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :-

2. "क्या प्रबंधन रिलायन्स कम्युनिकेशन लि., जयपुर का कर्मकार श्री जुगल किशोर शर्मा, सेल्स एक्जीक्यूटिव को दिनांक 06.11.2014 को सेवा से निकाला जाना न्यायोचित एवं न्यायसंगत है? यदि नहीं तो कर्मकार किस अनुतोष को पाने का अधिकारी है?"

3. स्टेटमेंट ऑफ क्लेम में दिये गये तथ्यों के अनुसार संक्षिप्त: प्रार्थी का कथन है कि वह दिनांक 9.4.2007 से प्रगति ठेकेदार वैल्यू ऐडेड सोल्यूशन प्राईवेट लिमिटेड द्वारा नियुक्त था और उसमें निरन्तर अच्छा कार्य करने के कारण दिनांक 1.9.2007 को प्रमोट कर सेल्स एक्जीक्यूटिव पद पर लगाया गया। प्रार्थी का कार्य उच्च श्रेणी का रहा है। आगे प्रार्थी का कथन है कि क्रम संख्या 3 पर कम्पनी के अधिकारियों द्वारा मुझ पर जो कार्य के असंतोष पाये जाने की चेतावनी का दावा है उस संदर्भ में प्रार्थी यह कहना चाहता है कि उसके कार्य करने के अंतिम महीनों में सैलेरी के साथ इन्सेन्टिव भी प्राप्त हुआ है जो यह दर्शाता है कि उसका कार्य उत्तम था और कम्पनी उसी एक्जीक्यूटिव को इन्सेन्टिव देती है जो अपने दिये हुए टारगेट से अधिक टारगेट प्राप्त करता है। यह बात प्रार्थी की वेतन पर्ची से जाहिर है।

4. क्रम संख्या 4 में विपक्षीगण ने मेरे एरिया सेल्स मैनेजर के बारे में लिखा है कि मैंने उनका निजी कार्य नहीं किया है जो कि सर्वथा गलत है। मेरे एरिया मैनेजर श्री नवनीत तिवारी की बहन का तलाक श्री मान् मनीष शर्मा, निवासी रावतभाटा, कोटा को मुझे अपने साथ में ले जाकर करवाया है जिसका मैं साक्षी हूँ। क्रम संख्या 5 व 6 में यह कथन है कि मैंने अपने हस्तलिखित पत्र से अन्यत्र कई अच्छी उपलब्धि मिलने के कारण त्याग पत्र दिया है जो गलत है। मुझे कहीं अच्छी नौकरी नहीं मिली ना ही मैंने अपने हस्तलिखित पत्र में अपना त्यागपत्र दिया है। यह मेरे कम्पनी के एरिया मैनेजर व कम्पनी के एचआर डिपार्टमेंट के द्वारा किया गया षडयन्त्र है जिसका मैं शिकार हूँ। अगर मुझे अन्यत्र कहीं अच्छी नौकरी मिलती तो मैं आपके सामने इनके खिलाफ पूर्व में आरोप पत्र प्रस्तुत नहीं करता। मेरे एरिया मैनेजर ने अपनी बहन का तलाक मेरे द्वारा अपने बहनोई से मुझे काम से निकालने का डर दिखाकर करवाया है जो कि मेरे साथ दुर्व्यवहार को दर्शाता है।

5. आगे प्रार्थी का कथन है कि क्रम संख्या 8 व 9 में विपक्ष का कथन है कि मेरी नियुक्ति 1 वर्ष के लिए थी तो मार्च 2007 से नवम्बर 2014 तक उसे कैसे काम पर रखा गया और उसने ऐसा कोई गलत कार्य नहीं किया जिससे उसे पुनः कम्पनी की सेवा में नहीं लिया जा सके। प्रार्थी का कथन है कि उसने अपने हस्तलिखित पत्र से कोई त्यागपत्र नहीं दिया और वह कोई

गलत आरोप नहीं लगा रहा है तथा यह पूर्णतया सत्य बात है कि उसके एरिया मैनेजर व एच.आर. स्टाफ की तरफ से गलत साक्ष्य प्रस्तुत है कि उसने अपनी तरफ से इस कार्य से त्याग पत्र दिया है। प्रार्थी का आगे कथन है कि अपने परिवार के प्रति वह अपनी जिम्मेदारी अच्छी तरह समझता है एवं इसी कार्य से वह अपने परिवार की जरूरतें पूरी करता था और विपक्ष ने दुर्भावना से ग्रस्त होकर वह गलत तरीके से उसे कार्य से हटाया है। प्रार्थी का आगे कथन है कि अगर उसकी नियुक्ति दिनांक 1.4.2007 से थी तो दिनांक 6.9.2014 को क्यों हटाया गया जबकि मार्च का महीना पूरा होने में पांच महीने थे और विपक्ष ने दुर्भावना के कारण हाथों-हाथ उसका टर्मिनेशन कर दिया। विपक्ष के पत्र से दो बातें साफ जाहिर होती हैं कि कभी तो वह मुझे टर्मिनेशन करने की बात करते हैं तो कभी ये मुझे स्वयं हस्तलिखित त्याग-पत्र देने की बात करते हैं जो कि सरासर झूठ से प्रेरित है। मैं पिछले 2 माह से बेरोजगार हूँ। मेरे तथा मेरे परिवार की आर्थिक स्थिति सही नहीं होने के कारण मैं आपसे न्याय की गुहार करता हूँ।

6. प्रार्थी का आगे कथन है कि इस कम्पनी को प्रार्थी ने अपनी जिन्दगी के करीब 8 वर्ष दिये हैं और इन कम्पनियों के अधिकारियों ने अपनी की गई छल-कपट से प्रार्थी का त्याग-पत्र को एक ही दिन में तैयार कर लिया। किसी भी कम्पनी के कर्मचारी को बिना नोटिस पीरियड के एक माह की अवधि में हटाया नहीं जा सकता है। कम्पनी के किसी नियम का प्रार्थी ने उल्लंघन नहीं किया है। विपक्ष ने प्रार्थी का मानसिक और आर्थिक शोषण किया है, अतः इनके खिलाफ उचित कार्यवाही करके उसे न्याय प्रदान किया जावे तथा क्षतिपूर्ति राशि व पुनः इसी कम्पनी में नौकरी दिलवाने की कृपा की जाय।

7. याची ने दिनांक 13.7.15 को क्लेम प्रस्तुत किया। दिनांक 13.7.15 को विपक्ष की तरफ से कोई उपस्थित नहीं आया। अतः विपक्ष के विरुद्ध एकपक्षीय कार्यवाही का आदेश पारित कर पत्रावली दिनांक 15.9.2015 को याची की एकपक्षीय साक्ष्य के लिए नियत की गयी। आदेशोपरान्त विपक्ष ने दिनांक 13.7.15 को अधिकार पत्र प्रस्तुत किया तथा एकपक्षीय कार्यवाही निरस्त करने हेतु आवेदन प्रस्तुत करने के लिए समय की मांग की। विपक्ष को दिनांक 15.9.2015 की अगली तिथि से अवगत कराया गया।

8. दिनांक 15.9.2015 को याची पक्ष ने एकपक्षीय साक्ष्य नहीं प्रस्तुत की तथा विपक्ष ने एकपक्षीय कार्यवाही निरस्त करने की आवेदन भी नहीं प्रस्तुत की। दिनांक 15.9.2015 को याची पक्ष अनुपस्थित था तथा विपक्ष के विद्वान प्रतिनिधि के मुंशी उपस्थित रहे। न्यायहित में कार्यवाही मुलतवी कर 26.11.15 एकपक्षीय साक्ष्य हेतु पुनः तिथि नियत की गयी। दिनांक 26.11.15 को उभयपक्ष अनुपस्थित रहे और पुनः न्यायहित में एक अवसर प्रदान करते हुए दिनांक 24.12.15 तिथि एकपक्षीय साक्ष्य हेतु नियत की गयी। दिनांक 24.12.15 से 27.12.15 तक अवकाश रहा अतः पत्रावली दिनांक 28.12.15 को प्रस्तुत हुई। दिनांक 28.12.15 को याची पक्ष पुनः अनुपस्थित रहा तथा विपक्ष उपस्थित रहा। पीठासीन अधिकारी अवकाश पर थे। विपक्ष ने एकपक्षीय आदेश निरस्त करने की आवेदन प्रस्तुत की। अगली तिथि दिनांक 22.2.16 आगामी कार्यवाही हेतु नियत की गयी।

9. दिनांक 22.2.16 को उभयपक्ष अनुपस्थित रहे अतः दिनांक 28.4.16 अगली तिथि निस्तारण हेतु नियत की गयी। दिनांक 28.4.16 को याची पक्ष पुनः अनुपस्थित रहा और विपक्ष उपस्थित रहा पत्रावली दिनांक 14.7.16 को विपक्ष की एकपक्षीय आदेश को निरस्त करने की आवेदन निस्तारण हेतु नियत की गयी।

10. दिनांक 14.7.16 को उभयपक्ष अनुपस्थित रहे अतः दिनांक 19.9.16 अगली तिथि पुनः विपक्ष की आवेदन के निस्तारण हेतु नियत की गयी एवं दिनांक 19.9.16 को उभयपक्ष के अनुपस्थित रहने पर अगली तिथि 6.10.16 निस्तारण हेतु नियत की गयी। दिनांक 6.10.16 को उभयपक्ष अनुपस्थित रहे। दिनांक 6.10.16 को पारित आदेश निम्नवत् है :-

“06.10.16 पुकार की गयी। उभयपक्ष अनुपस्थित हैं। पत्रावली अपरान्ह में पेश हो।

लघु हस्ताक्षर अपठनीय

(पीठासीन अधिकारी)“

6.10.16 अपरान्ह

पुकार की गयी। उभयपक्ष अनुपस्थित हैं। पत्रावली विपक्ष की दिनांक 28.12.15 की आवेदन निस्तारण में है जिसमें विपक्ष के विरुद्ध 13.7.15 की एकपक्षीय कार्यवाही निरस्त करने की आवेदन में प्रार्थना की गयी है जिसपर याची पक्ष की आपत्ति आनी है। याची पक्ष ने अब तक उस आवेदन की नकल भी नहीं ग्रहण की है और याची दिनांक 28.12.15 के पूर्व दिनांक 13.7.15 को उपस्थित होकर याचिका प्रस्तुत करने के बाद आज तक उपस्थित नहीं आया है।

पत्रावली का अवलोकन किया। विपक्ष की सशपथ आवेदन दिनांकित 28.12.15 एवं मियाद अधिनियम की आवेदन दिनांक 28.12.15 उक्त आवेदन के साथ निस्तारण में है। विपक्ष की तरफ से कोई आवेदन पर बल देने वाला नहीं है और विपक्ष भी अनुपस्थित चल रहा है अतः विपक्ष की उक्त आवेदन खारिज की जाती है। पत्रावली वास्ते एकपक्षीय साक्ष्य याची दिनांक 20.10.16 को पेश हो।

लघु हस्ताक्षर अपठनीय

(पीठासीन अधिकारी)“

11. दिनांक 20.10.16 को भी उभयपक्ष अनुपस्थित रहे। पत्रावली याची के एकपक्षीय साक्ष्य हेतु पुनः दिनांक 20.10.16 को नियत थी। दिनांक 13.7.15 से याची की निरन्तर अनुपस्थिति को दृष्टिगत रख साक्ष्य का अवसर समाप्त किया गया तथा पत्रावली एवार्ड हेतु आरक्षित की गयी।

12. पंचाट हेतु मैंने पत्रावली का सम्यक् अवलोकन किया।

13. याचिका में प्रस्तुत किये गये कथन को सिद्ध करने का प्रारम्भिक दायित्व याची पर है। उक्त तथ्य एवं परिस्थिति से स्पष्ट है कि याची ने याचिका के समर्थन में कोई शपथ-पत्र साक्ष्य में नहीं प्रस्तुत किया है। पत्रावली पर याची के हस्तलेख में त्याग-पत्र दिनांकित 6.11.14 की फोटोप्रति उपलब्ध है जो अंग्रेजी भाषा में है। पत्र में कहा गया है कि याची कम्पनी की सेवा से अन्यत्र बेहतर अवसर के लिए त्याग-पत्र दे रहा है। याची ने इस त्याग-पत्र से इन्कार किया है अतः यह दायित्व याची पर है कि वह सिद्ध करे कि उसने न आवेदन लिखी है न उस पर हस्ताक्षर याची के हैं। इस सम्बन्ध में साक्ष्य हेतु याची की तरफ से कुछ भी नहीं किया गया है।

14. उक्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि याची इस तथ्य को सिद्ध करने में असफल है कि प्रबन्धन रिलायन्स कम्यूनिकेशन लि. जयपुर का कर्मकार श्री जुगल किशोर शर्मा, सेल्स एक्जीक्यूटिव को दिनांक 6.11.2014 को सेवा से निकाला जाना न्यायोचित एवं न्यायसंगत नहीं है। कर्मकार श्री जुगलकिशोर शर्मा, तदनुसार किसी अनुतोष को पाने के हकदार नहीं है। प्रार्थी की याचिका तदनुसार खारिज की जाती है। न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 1 मार्च, 2017

का.आ. 602.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक राष्ट्रीय प्रौद्योगिकी संस्थान व अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 64/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/33/2011-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 602.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 64/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the The Director, National Institute of Technology and their workman, which was received by the Central Government on 16.02.2017.

[No. L-42012/33/2011-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.-II, KARKARDOOMA COURT COMPLEX, DELHI

ID.No. 64/11

Sh. Somnath S/o Sh. Lila Ram,
R/o Vikash Nagar, W.No. 24, Paudi,
P.O. -Garbhal,
Kurukshetra.

Versus

The Director,
National Institute of Technology,
Kurukshetra.

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide Letter No.L-42012/33/2011 IR(DU) dated 14.09.2011 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of Director, National Institute of Technology, Kurukshetra, in terminating the services of Sh. Somnath S/o Sh. Lila Ram w.e.f 27.05.2010, is legal and justified? What relief the workman is entitled to?”

On 29.09.2011 reference was received in this Tribunal. Which was register as I.D No. 64/2011 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 12.12.2011 claim statement has been filed by workman. Through which workman prayed as follows:-

“It is therefore prayed that the claim statement of the workmen/applicant may please be accepted and the respondent may kindly be directed taken back in service to the applicant with continuity of service and full back wages.

Any other relief which this Hon’ble Court deems fit and proper may kindly be granted in the interest of justice.”

Against Claim statement management filed its written statement on 22.05.2012. Where in management prayed as follows:-

“It is therefore prayed that the present claim statement may please be rejected/dismissed in the interest of justice.”

Workman filed rejoinder on 24.07.2012. Where in he re-affirmed the contents of claim statement .

On 14 .5.2013 Dr. R. K Yadav my Ld. Predecessor framed following issues:

1. Whether there exists relationship of employer and employee between the parties?
2. Whether engagement of the claimant by the Mess Committee of the hostel confers any status of Industrial employee in respect of the business of the management.
3. As in terms of reference.

And fixed 23.07.2013 for workman evidence.

Several opportunities given to workman to adduce his evidence but he failed to adduce his evidence. Hence his evidence has been closed on 2.11.2016 and case was fixed for management evidence/ arguments.

On 18.1.2017 management not adduced any evidence. So I reserved the award.

I perused the record which shows that workman in support of his case adduced no evidence.

In want of which only “No dispute Award” award can be passed.

Which is accordingly passed.

Dated:-30/1/2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 603.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक राष्ट्रीय प्रौद्योगिकी संस्थान व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 69/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/38/2011-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 603.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 69/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the The Director, National Institute of Technology and their workman, which was received by the Central Government on 16.02.2017.

[No. L-42012/38/2011-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE**BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO-II, KARKARDOOMA COURT COMPLEX, DELHI****ID. No. 69/2011**

Sh. Dharam Singh S/o Sh. Bhalu Ram,
Village-Dayalpur,
P.O. –Gurukul,
Kurukshetra.

Versus

The Director,
National Institute of Technology,
Kurukshetra.

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide Letter No.L-42012/38/2011 IR(DU) dated 14.09.2011 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of Director, National Institute of Technology, Kurukshetra, in terminating the services of Sh. Dharam Singh, S/o Sh. Bhalu Ram w.e.f 27.05.2010, is legal and justified? What relief the workman is entitled to?”

On 29.09.2011 reference was received in this Tribunal. Which was register as I.D No. 69/2011 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 12.12.2011 claim statement has been filed by workman. Through which workman prayed as follows:-

“It is therefore prayed that the claim statement of the workmen/applicant may please be accepted and the respondent may kindly be directed taken back in service to the applicant with continuity of service and full back wages.

Any other relief which this Hon’ble Court deems fit and proper may kindly be granted in the interest of justice.”

Against Claim statement management filed its written statement on 22.05.2012. Where-in management prayed as follows:-

“It is therefore prayed that the present claim statement may please be rejected/dismissed in the interest of justice.”

Workman filed rejoinder on 24.07.2012. Wherein he re-affirmed the contents of claim statement .

On 14 .5.2013 Dr. R. K Yadav my Ld. Predecessor framed following issues:

1. Whether there exists relationship of employer and employee between the parties?
2. Whether engagement of the claimant by the Mess Committee of the hostel confers any status of Industrial employee in respect of the business of the management?
3. As in terms of reference.

And fixed 23.07.2013 for workman evidence.

Several opportunities given to workman to adduce his evidence but he failed to adduce his evidence. Hence his evidence has been closed on 2.11.2016 and case was fixed for management evidence/ arguments.

On 18.1.2017 management not adduced any evidence. So I reserved the award.

I perused the record which shows that workman in support of his case adduced no evidence.

In want of which only “No dispute Award” award can be passed.

Which is accordingly passed.

Dated:-30/1/2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 604.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक राष्ट्रीय प्रौद्योगिकी संस्थान व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 66/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/35/2011-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 604.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 66/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the The Director, National Institute of Technology and their workman, which was received by the Central Government on 16.02.2017.

[No. L-42012/35/2011-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO-II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 66/2011

Sh. Karambir S/o Sh. Rameshwar Dass,
Village & P.O. –Kirmach,
Kurukshetra.

Versus

The Director,
National Institute of Technology,
Kurukshetra.

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide Letter No.L-42012/35/2011 (IR(DU)) dated 14.09.2011 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of Director, National Institute of Technology, Kurukshetra, in terminating the services of Sh. Karambir S/o Sh. Rameshwar Das w.e.f 27.05.2010, is legal and justified? What relief the workman is entitled to?”

On 29.09.2011 reference was received in this Tribunal. Which was register as I.D No. 66/11 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 12.12.2011 claim statement has been filed by workman. Through which workman prayed as follows:-

“It is therefore prayed that the claim statement of the workmen/applicant may please be accepted and the respondent may kindly be directed taken back in service to the applicant with continuity of service and full back wages.

Any other relief which this Hon’ble Court deems fit and proper may kindly be granted in the interest of justice.”

Against Claim statement management filed its written statement on 22.05.2012. Where-in management prayed as follows:-

“It is therefore prayed that the present claim statement may please be rejected/dismissed in the interest of justice.”

Workman filed rejoinder on 24.07.2012. Where-in he re-affirmed the contents of claim statement .

On 14 .5.2013 Dr. R. K. Yadav my Ld. Predecessor framed following issues:

1. Whether there exists relationship of employer and employee between the parties?
2. Whether engagement of the claimant by the Mess Committee of the hostel confers any status of Industrial employee in respect of the business of the management.
3. As in terms of reference.

And fixed 23.07.2013 for workman evidence.

Several opportunities given to workman to adduce his evidence but he failed to adduce his evidence. Hence his evidence has been closed on 2.11.2016 and case was fixed for management evidence/arguments.

On 18.1.2017 management not adduced any evidence. So I reserved the award.

I perused the record which shows that workman in support of his case adduced no evidence.

In want of which only "No dispute Award" award can be passed.

Which is accordingly passed.

Dated:-30/1/2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 605.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक राष्ट्रीय प्रौद्योगिकी संस्थान व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 87/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/56/2011-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 605.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 87/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the The Director, National Institute of Technology and their workman, which was received by the Central Government on 16.02.2017.

[No. L-42012/56/2011-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO-II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 87/2011

Sh. Sunil Kumar S/o Sh. Phool Singh,
Village-Sunehri, PO –Salarpur,
Kurukshetra.

Versus

The Director,
National Institute of Technology,
Kurukshetra.

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide Letter No.L-42012/56/2011 (IR(DU)) dated 14.09.2011 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of Director, National Institute of Technology, Kurukshetra, in terminating the services of Sh. Sunil Kumar S/o Sh. Phool Singh, w.e.f 27.05/2010, is legal and justified? What relief the workman is entitled to?”

On 29.09.2011 reference was received in this Tribunal. Which was register as I.D No. 87/11 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 14.12.2011 claim statement has been filed by workman. Through which workman prayed as follows:-

“It is therefore prayed that the claim statement of the workmen/applicant may please be accepted and the respondent may kindly be directed taken back in service to the applicant with continuity of service and full back wages.

Any other relief which this Hon’ble Court deems fit and proper may kindly be granted in the interest of justice.”

Against Claim statement management filed its written statement on 3.07.2012. Where-in management prayed as follows:-

“It is therefore prayed that the present claim statement may please be rejected/dismissed in the interest of justice.”

Workman filed rejoinder on 4.09.2012. Where-in he re-affirmed the contents of claim statement .

On 30.04.2013 Dr. R. K. Yadav my Ld. Predecessor framed following issues:

1. Whether there exists relationship of employer and employee between the parties?
2. Whether Mess Committee, being run in the hostel is part of the main function of the management? If yes, its effects?
3. As in terms of reference.

And fixed 2.07.2013 for workman evidence.

Several opportunities given to workman to adduce his evidence but he failed to adduce his evidence. Hence his evidence has been closed on 2.11.2016 and case was fixed for management evidence/ arguments.

On 18.1.2017 management not adduced any evidence. So I reserved the award.

I perused the record which shows that workman in support of his case adduced no evidence.

In want of which only “No dispute Award” award can be passed.

Which is accordingly passed.

Dated:-30/1/2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 606.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वरिष्ठ महाप्रबंधक, आयुध निर्माणी व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 07/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.12.2016 को प्राप्त हुआ था।

[सं. एल-14012/32/2013-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 606.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 07/2014) of the Central Government Industrial Tribunal-cum-

Labour Court, Kanpur as shown in Annexure, in the industrial dispute between the employers in relation to the Senior General Manager, Ordnance Factory and their workman, which was received by the Central Government on 16.12.2016.

[No. L-14012/32/2013-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE THE LOK ADALAT/CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR

Industrial Dispute No. 07 of 2014

Between :

Behari Traders,
through Sri Ram Ayodhya Singh,
Proprietor,
15/110, M.P. Mill Compound,
Sarvodaya Nagar,
Kanpur. U.P.

Mukesh Kumar son of late Sohan Lal,
House No.2 Kachi Basti,
Govind Nagar Kanpur.

And

Senior General Manager,
Ordnance Factory,
Kalpi Road,
Kanpur.

AWARD

1. Central Government, Mol & Employment, New Delhi, vide notification L-14012/32/2013-IR (DU) dated 21.01.14 has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of M/s Behari Traders, Kanpur, in terminating the service of Sri Mukesh Kumar son of late Sohan Lal, workman with effect from 06.05.13 is just fair and legal? If not, to what relief the concerned workman is entitled to?
3. In this case after receipt of the notice of the tribunal the worker filed an affidavit along with application that he is not interested to contest the present reference.
4. The present case is pending since 10.02.2014, and considering period of the pendency of the case as well affidavit of the worker filed on 07.08.14, in which he has clearly submitted that he is not interested to prosecute with the case and of his own will he interested to withdraw the present pending case from this tribunal, therefore, the Tribunal felt it to be put the present case before the LOK ADALAT, scheduled to be held on 30.09.16.
5. The case was taken up in LOK ADALAT ON 30.09.16, and as observed above that the worker is not interested in contesting his case before this tribunal and wants to withdraw the case of his case without assigning any cogent reasons.
6. Therefore, the tribunal during holding of LOK ADALAT, is constrained that the worker would prosecute his case in view of his application and affidavit submitted in the case above case. Hence it is decided that the worker is not interested in prosecuting his claim before the tribunal, therefore, his case in LOK ADALAT, is decided against him.
7. As such the case is decided against the workman through the LOK ADALAT and in favour of the Management.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 607.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमिश्नर म्युनिसिपल कारपोरेशन ऑफ दिल्ली, ईस्ट नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 74/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/143/2013-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 607.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case CR No. 74/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner, Municipal Corporation of Delhi (East), New Delhi and their workman, which was received by the Central Government on 14.12.2016.

[No. L-42011/143/2013-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No.74/2015

Shri Inder Pal Singh, S/o Shri Khajan Singh, through
MCD General Mazdoor Union,
Room No.95, Barrack No.1/10,
Jam Nagar House,
New Delhi

...Workman

Versus

The Commissioner,
Municipal Corporation of Delhi(East),
Udyog Sadan, near Patparganj,
Jawaharlal Nehru Marg,
New Delhi-110 092

...Management

AWARD

Reference under Section 10 sub section (2A) of the Industrial Disputes Act, 1947(in short the Act) was received from the Central Government, Ministry of Labour and Employment vide it orders No.L-42011/143/2013-IR(DU) dated 05.02.2015 for adjudication of the industrial dispute with the following terms:

‘Whether Shri Inder Pal Singh S/o Shri Khajan Singh, is entitled to the status of Chaudhary with effect from the date on which any order was passed wherein Shri Inder Pal Singh was given responsibility of looking after the work of Chaudhary and all consequential benefits revised from time to time?’

2. Both the parties were put to notice and the workman Shri Inder Pal Singh filed his statement of claim, wherein it is alleged that he has been allotted work of Chaudhary with effect from 01.03.1989 by the competent officers of Horticulture Department of Civil Lines Zone where he performed his duty upto 18.06.2009. Thereafter he was transferred to Rohini zone and on 01.07.2010, he was posted to Shahdara North Zone. However, he has been denied pay scale of Chaudhary, revised from time to time. The workman has got payment of salary in the lower pay scale of mali, i.e. Rs.750-940 instead of Rs.950-1500 revised from time to time and has been denied the scale of Chaudhary, effect from 01.03.1989. Action of the management is alleged to be illegal & unjustified and amounts to unfair labour practice.

3. It is also averred in para 7 of the statement of claim that Hon’ble High Court, Delhi, in the matter of Jai Chand vs Municipal Corporation of Delhi (CW 6514/2001) has disapproved the non-payment of wages for those malis who are working on the post of Chaudhary vide its judgement dated 02.05.2003. After the above judgement of the Hon’ble Court, Municipal Corporation of Delhi (Horticulture Department) has also issued order No.ADC(Hor.)/AO(Hort)/DA-VII/05/457 dated 04.03.2005 (Annexure B). There is also reference to the judgment of Division Bench of High Court of Delhi in the matter of Municipal Corporation of Delhi vs. Sultan Singh wherein also plea of the MCD regarding non-payment of wages of Chaudhary to malis who are doing working of Chaudhary, was turned down by the Hon’ble High Court in judgement dated 27.07.2011.

4. It is also averred that similar situated workmen who were performing duty of Chaudhary were granted pay scale of Chaudhary from the date when they were asked to perform duty on the higher post and management has challenged the order dated 27.07.2011 of the Labour Court in the matter of MCD vs Sultan Singh as well as before the Hon'ble Supreme Court of India by Special Leave to Appeal No.S20069/2011 and the plea by MCD has been dismissed by both, before the High Court as well as the Hon'ble Supreme Court. Workman, herein, is also similarly situated and doing work of Chaudhary and as such, entitled to same benefits.

5. Management has demurred claim of the workman by taking preliminary objections, inter alia, present dispute not being an industrial dispute as there is no espousal & no demand notice has been served upon the management, claim being misconceived, claim being stale etc. In para 3 of the preliminary objection, it is admitted that the workman herein was engaged on the post of mali on daily wage basis and was later on regularized on the same post of mali. There is prescribed procedure for promotion to the post of Garden Chaudhary and there must be sanctioned/vacant post of Garden Chaudhary to which the workman can lay claim when he has passed trade test conducted by the department. Claimant has not passed the said trade test nor is he performing duties of Garden Chaudhary. No such office order has been issued by the competent authority. It is further alleged that the workman herein is not entitled for any relief on account of delay and laches and reliance is also put on judgements of the Apex Court in the case of 'Nedungadi Bank Limited Vs. K.P. Madhavankutty & ors' (2002 (2) SC 4) and State Co-op Land Development Bank Vs. Neelam (2005) 5 SC 91). Management, on merits, have denied material averments and reiterated that the workman herein appeared in the trade test conducted by Education Consultant India Limited on behalf of the management, in which the workman had secured 140th rank. It is, further submitted that only 50 employees were promoted to the post of Chaudhary, who were having requisite qualification as well as secured rank upto 50. It is also denied that the workman herein was performing duties of Chaudhary with effect from 01.03.1989. Accordingly, it is prayed that claim of the workman herein is liable to be dismissed, being devoid of merits.

6. Against this factual background, the Tribunal, on the basis of pleadings of the parties, framed the following issues:

- (i) Whether reference is not maintainable, as alleged in the preliminary objections?
- (ii) As in terms of reference

Findings on Issue No.(i)

7. Admittedly, in the present case, reference has been made under Section 10 sub Section (2A) of the Act for adjudication. It is now well settled position in law that when a reference has been made for adjudication to the Tribunal or Labour Court, as the case may be, it is paramount duty of the court to decide the same on merits, irrespective of the pleas taken by the management. The dispute in the case in hand cannot be said to be stale for the simple reason that there is no previous adjudication of the matter between the parties from a competent court nor that there is inordinate delay in approaching this Tribunal by the workman.

8. It has been held by the Hon'ble Apex Court in the case of Raghubir Singh vs. General Manager (2014) Lab.I.C. 4266 = (2014) 10 SCC 301 that a reference for adjudication to the Industrial Tribunal can be made by the appropriate Government at any time and provisions of Limitation Act does not apply. There are clear observations in the above judgement that industrial dispute is to be decided by the Tribunal or Labour Court on merits, irrespective of the pleadings on limits. Therefore, ratio of law in the case of 'Nedungadi Bank Limited Vs. K.P. Madhavankutty & ors' (supra) and State Co-op Land Development Bank Vs. Neelam (supra) is not applicable to the case in hand as there is no inordinate delay nor workman is guilty of delay and laches in approaching the court.

9. It is clear from the preliminary objections taken in the written statement by the management that the management has raised objections that no demand notice has been served upon the management nor the MCD General Mazdoor Union has any locus standi to raise the present dispute as the union is not a recognized union of the management. To my mind, there is no requirement of law that a dispute can be raised only by a recognized union. In this regard, it is appropriate to refer to the judgement of the Hon'ble Apex Court in the case of State of Bihar Vs. Kripa Shankar Jaiswal (AIR 1961 (2) SC Report 1) wherein also objection was taken on behalf of the management that the union was not a registered under the Trade Union Act on the date of the settlement and said plea was rejected by observing as under:

'Held, that for a dispute to constitute an industrial dispute it is not a requisite condition that it should be sponsored by a recognized union or that all the workmen of an industrial establishment should be parties to it. A settlement arrived at in course of conciliation proceedings falls within [Section 18\(3\)\(a\)](#) and (d) of the [Industrial Disputes Act](#) and as such binds all the workmen though an unregistered union or only some of workmen may have raised the dispute. The absence of notice under [Section 11\(2\)](#) by the Conciliation Officer does not affect the jurisdiction of the conciliation officer and its only purpose is to apprise the establishment that the person who is coming is the conciliation officer and not a stranger. Any contravention of [Section 12\(6\)](#) in not submitting the report within 14 days may be a breach of duty on the part

of the conciliation officer ; it does not affect the legality of the proceedings which terminated as provided in [Section 20\(2\)](#) of the Act.

10. Equally merit-less is the plea taken by the management that the present dispute is not sponsored or espoused by substantial number of workmen. It is fairly settled position in law that even non-espousal of a case by the union would not deprive the workman of the relief to which the workman is otherwise entitled under the law. Such view appears to have been taken in the case of *Nazrul Hassan Siddiqui vs. Presiding Officer, Industrial cum Labour Court Bombay* (1997) Lab.I.C. 1807. In the above cited case also contention was raised by the management that the dispute does not fall within the definition of 'industrial dispute' and the same has not been referred or supported by substantial section of workmen. High Court rejected the plea of the management by placing reliance upon the decision of the Hon'ble Supreme Court in the case of *Associated Cement Companies Ltd. (AIR 1960 SC 777)*, which it was observed as under:

'We have already noticed that an industrial dispute can be raised by a group of workmen or by a union even though neither of them represent the majority of the workmen concerned; in other words, the majority rule on which the appellant's construction of Section 19(6) is based is inapplicable in the matter of the reference under Section 10 of the Act. Even a minority group of workmen can make a demand and thereby raise an industrial dispute which in a proper case would be referred or adjudication under Section 20.'

11. In view of the ratio of the judgement discussed above, it is clear that espousal of a dispute by the union is not sine qua non for adjudication of such dispute in terms of Section 10 of the Act. Consequently, this issue is decided in favour of the workman and against the management.

Findings on Issue No.(ii)

12. Now, the main issue which requires determination in the case in hand is whether the workman herein is entitled for grant of pay scale of Rs.950-1500 as revised from time to time alongwith consequential benefits. It is clear from pleadings of the parties that initially the workman herein was appointed as mali on daily wage basis and later on he was regularized on the same post of mali in the pay scale of Rs.750-940(pre-revised) alongwith usual allowances. This fact has been admitted even by the management in para 3 of the preliminary objections.

13. There is also ample evidence on record that the workman herein was performing duty as officiating Chaudhary. It is clear from perusal of document dated 12.08.2004 (List of Chaudharys looking after Garden Chaudhary in Horticulture Department) Ex.WW1/1 that name of the workman, Shri Inder Pal finds mention at serial No.3 and working as Chaudhary since March 1989. Workman, in order to prove his case, has tendered in evidence his affidavit Ex.WW1/A, wherein material averments contained in statement of claim has been reiterated. It is specifically alleged in the affidavit that he was doing work of acting Chaudhary with effect from 01.03.1989. There are also averments in his affidavit that one Shri Jai Chand has also been granted pay scale of Chaudhary by the management of MCD and Sultan Singh and others vs. MCD, who were doing work of acting Chaudhary, vide judgement of the Hon'ble High Court, i.e. in the case of *MCD vs. Sultan Singh & others* and necessary orders for implementation of the said judgement were issued by MCD vide order dated 04.06.2013. There is no cross examination of the workman/deponent that he has appeared as WW1 and has tendered in evidence a copy of his identity card, which is Ex.WW1/2. It is evident from perusal of the Identity Card that against the column 'Designation', there is mention of workmen Chaudhary, Horticulture.

14. There is no merit in the stand taken by the management in its reply, that the workman here is not entitled for promotion to the post of Chaudhary inasmuch as he has not appear in the trade test conducted by the department. To my mind, this plea is devoid of any merit inasmuch as similarly situated other workers who were performing duties of Chaudhary, i.e. acting Chaudhary have been granted pay scale of Garden Chaudhary after judgement dated 27.07.2011 rendered by the Hon'ble High Court in the case of *MCD vs. Sultan Singh* as well as *MCD vs. Mahipal*(WP 5550 of 2010). Operating portion of the judgement in *Sultan Singh* (supra) of the Hon'ble Division Bench is as under:

"28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the

Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un- sustainability or perversity in the orders of the Tribunal has been made out.

30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost.”

15. It is further clear that SLP was also filed by MCD before the Hon’ble Apex Court vide IA No.2 WP for special leave S20069/2011 MCD vs. Sultan Singh and others which was also dismissed as withdrawn vide order dated 09.04.2012. It is further clear that the Hon’ble High Court in Sultan Singh case strongly deprecated the stand taken by the management that the workmen were not possessing requisite qualification or have not qualified the test etc. It was clarified that since the workmen were discharging duties to the post of Garden Chaudhary, a such, workmen were entitled for the salary of Garden Chaudhary and competent authority need not look into anything else except the fact that the workman had worked as Garden Chaudhary. Therefore, stand taken by the management that the workman herein could not qualify the test conducted by Education Consultant India Limited is without any merit and has no relevance so far as question of grant of salary against the post of Garden Chaudhary is concerned.

16. It is not out of place to mention here that even if the workman herein was not a party in Sultan Singh case referred above, judgement of the Hon’ble High Court is binding on the management and management is required to implement the same in letter and spirit and the same is judgement in rem, and all similarly situated workmen are required to be accorded the benefit of the said judgement of the Hon’ble High Court, which have become final. There is no question of even plea of delay and laches when management had not led any evidence to prove the same. The Hon’ble High Court has decided an abstract proposition of law, i.e. a mali who is performing duty as officiating/acting Chaudhary is entitled to the salary/wages of Chaudhary. Law is fairly settled that if a person is working on a higher post, on ad hoc or temporary basis, even such workman is entitled to salary/wages of higher post, unless rules or regulations specifically provides otherwise. I find support to this view from Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598), yet in another case, Hon’ble Apex Court while considering that question of grant of benefits to similarly situated employees who were not party to the writ petition or lis in the case of State of Uttar Pradesh vs. Arvind Kumar Srivastava (2015) 1 SCC 347 observed as under:

“The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. The legal principles that can be culled from the judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of [Article 14](#) of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see [K.C. Sharma & Ors. v. Union of India](#) (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

17. In view of the discussions made herein above, it is held that the workman herein, Shri Inder Pal Singh is entitled to the pay scale of Garden Chaudhary with effect from March 1989 and as a corollary, management is liable pay the difference of wages of mali vis-a-vis Garden Chaudhary from the date when the workman herein was performing duties

and functions of Garden Chaudhary till date. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : December 6, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 608.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमिश्नर, नार्थ दिल्ली म्युनिसिपल कारपोरेशन, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 221/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42012/166/2015-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 608.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case CR No. 221/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner, North Delhi Municipal Corporation, New Delhi and their workman, which was received by the Central Government on 14.12.2016.

[No. L-42012/166/2015-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 221/2015

Shri Jai Bhagwan,
S/o late Shri Daya Nand,
C/o Shri Anuj Aggarwal,
Aggarwal Bhawan,
GT Road, Tis Hazari,
New Delhi 110 054

...Workman

Versus

The Commissioner,
North Delhi Municipal Corporation
4th Floor, Civic Centre, Minto Road,
New Delhi 110 002

...Management

AWARD

A reference was received in the present from Ministry of Labour vide letter No.L-42012/166/2015-IR(DU) dated 05.10.2015 for adjudication of dispute with the following terms of reference:

‘Was the termination of Shri Jai Bhagwan without assigning any reason is justified as per provisions of law? If not, to what relief is the workman entitled?’

2. Facts of the case as contained in the statement of claim are that Shri Jai Bhagwan, the workman herein joined services of Municipal Corporation of Delhi the management, in Horticulture Department with effect from 23.10.1993 as mali. He was being treated as daily rated/casual/muster roll worker and was being paid fixed wages, which were being revised from time to time under the Minimum Wages Act. Other facilities, like uniform, earn leave, casual leave, gazette holidays, festival and restricted holidays which the other counter parties were also denied to the workman herein. The workman herein has an unblemished and uninterrupted record of service. Services of the workman was terminated with effect from 25.01.1996 without assigning any valid reason and said action of the management in terminating services is alleged to be totally illegal, bad, unjust and malafide and without following any legal procedure. Action of the management amounts to unfair labour practice as provided in Section 2(ra) read with Item

No.5 of the Fifth Schedule of the Industrial Disputes Act, 1947(in short the Act) and the same is in violation of provisions of the Act. The workman has in fact worked for more than 240 days continuously in a calendar year for the purpose of 25(B) of the Act. Claimant has been meted out with hostile discrimination as juniors to him have been regained while the workman herein has been thrown out of job, which is in violation of Section 25 F, G, H and N of the Act read with rule 76, 77 and 78 of the Central Industrial Rule 1957. Finally, prayer has been made for reinstatement of the workman with full back wages.

2. It is clear from the record of the case that nobody appeared on behalf of the management, as such, management was proceeded ex-parte vide order dated 17.03.2016. Thereafter, ex-parte evidence of the claimant was recorded. Claimant examined himself as WW1 and tendered in evidence documents Ex.WW1/1 to Ex.WW1/8.

3. It is clear from perusal of affidavit Ex.WW1/A that the averments contained in the affidavit are on the same lines as the facts mentioned in the statement of claim. The workman has also deposed that his job is perennial in nature.

4. It is evident from perusal of document Ex.WW1/1 that the workman has filed application before the Deputy Director (Horticulture) seeking relevant information regarding employment and engagement of beldars. Ex.WW1/2 shows that information was also sought by the workman under RTI Act and it was replied vide letter dated 17.01.2012. Workman herein was daily wage beldar for different days as per list enclosed. He was engaged from time to time whenever muster roll was got sanctioned by the department for specific work and period and his services were not regularized. It is further clear from details of the salary annexed with Ex.WW1/2 that right from December 1993 till 10.10.1996 the claimant was engaged for different period and his attendance was also duly marked in the muster roll enclosed with the said documents.

5. Workman has also filed copy of the demand notice Exc.WW1/3 wherein he has mentioned about his engagement as mali/beldar on 23.12.1993 and his termination on 25.01.1996. Ex.WW1/5 shows that the matter was taken before the Assistant Labour Commissioner averring that he was employed by the management in its Horticulture Department on 29.12.2013 as daily wager muster roll worker for a short period for seasonal work and further it is mentioned that the workman worked only upto 28.01.1994. However, in the subsequent para it is mentioned that the workman also worked from 10.07.1995 to 09.09.1995 and from 26.11.1995 to 25.01.1996 for 48 and 52 days respectively only. It is thus clear from the resume of evidence on record that the workman was admittedly engaged by the management as daily rated/casual labour and he was performing his duties till the date of his termination on 25.01.1996. Statement of the claimant in his affidavit, Ex.WW1/A is clear and remains un-rebutted as the workman has not been subjected to any cross examination by the management, who has been proceeded ex-parte on 17.03.2016. Since evidence led by the workman to the effect that he was continuously engaged by the management for the date of his engagement till his termination in the year 1996 remained unrebutted, as such, it is held that the workman has worked continuously with the management.

6. It is pertinent to mention here that even a daily or casual worker also falls within the ambit and scope of the definition of 'workman' as defined under section 2(s) of the Act, which definition is reproduced thus:

"2(s) Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

- (i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act 1950(46 of 1950) or the Navy Act, 1957 (62 of 1957), or
- (ii) Who is employed in the police service or as an officer or other employee of a prison , or
- (iii) Who is, employed mainly in a managerial or administrative capacity, or
- (iv) Who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature".

7. It is clear from the records that the workman herein was engaged on daily or casual basis, as such, workman in the present case would fall within the definition of 'workman'. The question whether daily wager or casual labour is a workman as defined under Section 2(s) of the Act came for consideration before the Hon'ble Apex Court in the case of Devender Singh Vs. MC Sanaur (AIR (2001) SCC 2532) wherein while interpreting provisions of Section 2(s) of the Act, it was held as under:

'The source of employment, the method of recruitment, the terms and conditions of employment/contract of service, the quantum of wages/pay and the mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of [Section 2\(s\)](#) of the Act.

The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of [Section 2\(s\)](#) from which it can be inferred that only a person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman.

15. Whenever an employer challenges the maintainability of industrial dispute on the ground that the employee is not a workman within the meaning of [Section 2\(s\)](#) of the Act, what the Labour Court/Industrial Tribunal is required to consider is whether the person is employed in an industry for hire or reward for doing manual, unskilled, skilled, operational, technical or clerical work in an industry. Once the test of employment for hire or reward for doing the specified type of work is satisfied, the employee would fall within the definition of 'workman'.

8. In *Jasmer Singh vs. State of Haryana* (2015 (1) SCALE 360), Hon'ble Apex Court dealt with the question of grant of back wages where termination of the job of a daily paid worker who worked for 240 days in a calendar was found to be illegal, null and void.

9. In the present case, claimant has specifically deposed in his affidavit, Ex.WW1/A, that he is out of service after his termination. In such a situation, Tribunal is of the view that claimant is entitled to be paid back wages in the wake of the ratio of law in *Jasmer Singh* case (supra), wherein it was observed as under:

The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer employee relationship, the latter's source of income gets dried up. Not only the concerned employee, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi judicial body or Court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. Denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the concerned employee and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments."

10. Admittedly, in the present case, no notice was served by the management as required under Section 25 F of the Act. Workman has also stated that he was doing similar work which was being performed by other daily wagers and juniors to him have also been retained in service while he has been thrown out of the job. Since provisions of Section 25-F of the Act are mandatory in nature, which clearly provides that a workman employed in any establishment who has put in continuous service for less than 240 days, shall not be terminated or retrenched unless the workman has been given one month notice in writing or one month salary in lieu of such notice is to paid to such workman. In the case in hand, management has not adduced any evidence so as to rebut the case of the workman, as such, this Tribunal is left with no choice except to believe the version of the workman contained in statement of claim and duly supported by him in his evidence while appearing as WW1, coupled with documentary evidence on record. Law is fairly settled that if averments made in the plaint or statement of claim is not specifically denied by the other party and the said party has also not entered into the witness box so as to rebut the claim of the claimant, in that eventuality, court can believe the version of such a claimant and draw adverse inference against the party who has not appeared before the Court or Tribunal. It is clear from the evidence discussed above that the workman herein was not served with any kind of notice before his termination. As such, there is clear cut violation of provisions of Section 25-F of the Act and even provisions of Section 25-G have also been violated as juniors of the workman have been regularized and retained in service while the workman herein has been thrown out of the job. Principle of last come, first go appears to have been not followed by the management.

11. As a sequel to my above discussion, it is held that termination of services of the claimant herein is illegal and in violation of principles of natural justice and also in violation of provisions of Section 25-F, G, H and N of the Act read

with Rule 76, 77 and 78 of the Central Industrial Rules. Consequently, the workman, Shri Jai Bhagwan, is liable to be reinstated in service with full back wages and all consequential benefits, as the work against which he was working is perennial in nature. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 28, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 609.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डायरेक्टर, इंडियन इंस्टिट्यूट ऑफ मैजे रिसर्च, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 155/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42012/79/2016-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 609.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 155/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Director, Indian Institute of Maize Research, New Delhi and their workman, which was received by the Central Government on 14.12.2016.

[No. L-42012/79/2016-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 155/2016

Shri Lal Babu Rajak,
R/o B-II, Pusa Seravant Quarters,
New Delhi

...Workman

Versus

1. The Director,
Indian Institute of Maize Research,
Pusa Campus, New Delhi
2. Shri Lakshmi Prasad,
M/s Green Space Manpower Solution Pvt. Ltd.,
26, Plot No.54, AKH – 288, Ground Floor,
Gali No.7, Block E,
Near Lal Mandir Niti Vihar,
New Delhi

...Managements

AWARD

Central Government, vide letter No.L-42012/79/2016-IR(DU) dated 24.08.2016, referred the following industrial dispute to this Tribunal for adjudication:

Whether the claim of the workman Shri Lal Babu Rajak for reinstatement in the establishment of India Institute o Maize Research is legal and/or justifiable and if so to what relief is the workman entitled and what directions are necessary in this regard? Whether the action of the management of Indian Institute of Maize Research in continuing the workman as contractor labour against the permanent and perennial nature of work is illegal and/or unjustified and amounts to unfair labour practice and if so whether the workman is entitled to absorption in service as direct employee and if so on what terms and conditions?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Lal Babu Rajak opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : December 6, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 610.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चेयरमैन कम मैनेजिंग डायरेक्टर, एनबीसीसी लिमिटेड, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 156/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/72/2016-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 610.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 156/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Chairman-cum-Managing Director, NBCC Limited, New Delhi and their workman, which was received by the Central Government on 14.12.2016.

[No. L-42011/72/2016-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 156/2016

Shri Suraj @ Pappu and 6 others,
Through Delhi Multi Storey Building,
Employees Congress, P-85,
Congress P-85, Pandav Nagar,
Mayur Vihar, Delhi

...Workman

Versus

The Chairman cum Managing Director,
National Building Construction Corporation Limited,
Lodhi Road,
New Delhi

...Managements

AWARD

Central Government, vide letter No.L-42011/72/2016-IR(DU) dated 22.08.2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demand of the union for regularization of the workman concerned (mentioned in Annexure A) in the service of management No.1-NBC with all consequential benefits from the date of their initial engagement or any other subsequent date is legal and/or justified and if so to what relief the workman concerned are entitled and what directions are necessary in this respect?” Whether the workman concerned (mentioned in Annexure A) are entitled to wages and benefits at par with the employees of the corresponding status of management No.1-NBC if so to what relief the workmen concerned are entitled and what directions are necessary in this respect?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, the workmen union opted not to file their claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman union as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the workman union. Despite service of the notice, workman union opted to abstain away from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the workman union is not interested in adjudication of the reference on merits.

4. Since the workman union has neither put in its appearance nor has it led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : December 6, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 611.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेक्रेट्री एनडीएमसी, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 61/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.01.2017 को प्राप्त हुआ था।

[सं. एल-42011/176/2011-आईआर (डीयू)]

मंजीत सिंह नैय्यर, उप सचिव

New Delhi, the 1st March, 2017

S.O. 611.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 61/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Secretary, NDMC, New Delhi and their workman, which was received by the Central Government on 05.01.2017.

[No. L-42011/176/2011-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 61/2012

Shri Rajinder, S/o Shri Jogeshwar, Beldar, through
The General Secretary,
Municipal Employees Union, Aggarwal Bhawan,
G.T. Road, Tis Hazari, Delhi

...Workman

Versus

The Secretary,
New Delhi Municipal Council (NDMC),
Palika Bhawan,
Palika Kendra,
New Delhi

...Management

AWARD

A reference was received from Government of India, Ministry of Labour under sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, vide letter No.L-42011/176/2011-IR(DU) dated 23.02.2012, the terms of which are as under:

“Whether the management of New Delhi Municipal Council(NDMC), New Delhi in denying regularization to Shri Rajinder, S/o Shri Jageshwar, Beldar with retrospective effect (from the initial date of appointment, i.e. 31.07.1985) with all consequential benefits is legal and justified? What relief the workman is entitled to and from which date?”

2. Background facts necessary for disposal of the matter are that the Shri Rajinder, (hereinafter referred to as the claimant) joined employment of New Delhi Municipal Committee (in short the management) as beldar on 31.07.1985. He was being treated as a daily rated/casual/muster roll worker and was being paid revised wages from time to time under the Minimum Wages Act. His counterparts doing identical work were being treated as regular employees and paid salary in pay scale and allowances. They were also enjoying other facilities like uniform earned leave, casual leave, gazetted/festival/restricted holidays, which were completely denied to the workman, who has an unblemished and uninterrupted service record.

3. It is the case of the workman that his services were terminated on 01.03.1988 without assigning any reason. This termination was challenged by the claimant herein before the Industrial Tribunal, Labour Court No.VIII in ID No.357/1992, Ex.WW1/6 and it was held that termination of the claimant was totally illegal and unjustified and 50% back wages to the claimant. Thereafter, matter was taken by the management in writ appeal before the Hon'ble High Court and vide order dated 01.02.2005 and award passed by the management was modified to the extent of grant of 25% back wages instead of 50%, subject to reinstatement of the workman.

4. There are allegations that in pursuance of the above order, claimant was assigned duties on 07.04.2005 and on 27.09.200, Junior Engineer Shri Rath asked the workman not to come for duties from 28.09.2005 as his muster roll has expired. Even thereafter, the claimant visited the management on 28.09.2005 though without assignment of any duty. Thus, the management has again terminated services of the claimant with effect from 28.09.2005 without assigning any reason despite continuity of service granted by the Hon'ble High Court of Delhi. Rather, management should have regularized services of the claimant since July 1985. Thereafter, claimant again raised an industrial dispute before the Conciliation Officer challenging termination as well non-regularization of his services and during pendency of the conciliation proceedings, management allowed reinstatement of the claimant and assigned duties to him with effect from 08.08.2006. The appropriate Government vide order dated 31.03.2008 has only referred the dispute regarding termination without referring the issue of regularization. As a result of this, claimant was constrained to raise an industrial dispute pertaining to his regularization. Action of the management regarding non-regularization of his services with effect from 31.07.1985, i.e. initial date of his joining on the post of beldar in proper time scale and allowances at par with his regular counterparts on the principle of equal pay for equal work is fully illegal, bad and unjust due to reasons which are fully enumerated in the statement of claim. Finally, a prayer has been made for passing an award regarding regularization on the post of beldar from his initial date of appointment, i.e. 31.07.1985 with all consequential benefits.

5. Claim filed by the claimant was contested by the management, who filed written statement and took preliminary objections regarding maintainability of the present reference, non-disclosure of the fact that the claimant has sought same relief in the writ petition in High Court of Delhi vide writ petition (C) 1003/2012. On merits, it is averred that the claimant was engaged as a beldar i.e. TMR, who are daily rated/casual/muster roll workers. Claimant was not a regular employee and as such not entitled to the facilities to which his counterparts are entitled. Moreover, he is not entitled for regularization in view of the judgement of the Hon'ble Apex Court in Uma Devi case Vs. State of Karnataka. Moreover, claimant has concealed material facts deliberately and has not disclosed that he was reinstated as casual worker without any change in his status with effect from 07.04.2005 as a result of order dated 01.02.2005 in writ petition No.2980/2003. In fact, claimant continued to work till 27.09.2005 as alleged by the claimant. In fact, due to initiation of conciliation proceedings, Conciliation Officer allowed duties with effect from August 2006 as work was available for this category of workers. It is denied that the claimant is entitled for regularization from the initial date as claimed by him and claimant is governed by the policy framed by the management for regularization of such workmen subject to fulfillment of certain conditions.

6. Against this factual background, my learned predecessor, vide order dated 02.07.2012 observed that no specific issue except the reference raised for adjudication was made out. As such, case was adjourned for evidence of the parties.

7. Claimant, in order to prove the case against the management, examined himself as WW1 and tendered his affidavit Ex.WW1/A alongwith documents Ex.WW1/1 to Ex.WW1/11. Shri Surender Bhardwaj was examined as WW2 whose affidavit is Ex.WW2/A, who relied on document Ex.WW1/5 which is resolution passed by the union on 08.10.2008.

8.. Management in order to rebut the case of the claimant, examined Shri Raj Shekhar, Executive Engineer as MW1, who has also tendered in evidence his affidavit Ex.MW1/A alongwith documents Ex.MW1/1 to Ex.MW1/14.

9. I have heard Shri Abhinav Kumar, A/R for the claimant and Shri M.S. Rawat, A/R for the management

10. Before I proceed to consider the comparative merits of the submissions raised on behalf of either of the parties, it is necessary to mention here that during the course of arguments, it was fairly admitted by the authorized representative of the respective parties that the claimant herein was initially engaged as a beldar on 31.07.1985 on temporary muster roll and the management has allowed status of such workmen to be daily rated/casual workers. It is also clear from evidence that he was being paid wages under the Minimum Wages Act. However, he was not enjoying the facilities which are available to the counterparts who are performing identical duties. Learned A/R for the management, in all fairness, stated that facilities, like uniform, EL, CL, gazette/festival/restricted holidays is available only to regular workmen. So far as the past litigation between the parties is concerned, factum of the same has not been denied even by the management in its pleadings. It is clear from perusal of the award Ex.WW1/6 that initially termination of the claimant herein was held to be illegal and unjustified under the law and it was held that the claimant is entitled for reinstatement in service with continuity of service alongwith 50% back wages with effect from 03.07.1988. Admittedly, matter was taken by the management before Hon'ble High Court and vide order Ex.WW1/7 award passed by the Industrial Tribunal was partly modified and set aside as direction was given for payment of only 25% back wages instead of 50%, subject to reinstatement of the claimant herein on or before 02.04.2005. Perusal of order dated 08.08.2006 Ex.WW1/8 shows that the claimant Shri Rajinder was reinstated as beldar on TMR with immediate effect. This was done in view of the judgement of the Hon'ble High Court stated above.

11. Now, the vital question before this Tribunal is whether the claimant is entitled for regularization of his service from back date as alleged by the claimant. Shri Rawat, authorized representative appearing on behalf of the management strongly contended that the claimant is not entitled for regularization as a matter of course as he has never been interviewed, does not possess requisite qualification and his past record has to be examined. It is only thereafter that he can be regularized as per policy of the management. At this juncture, it is necessary to refer to policy of regularization, which is Ex.MW1/3. It is clear from perusal of the above policy that daily or casual workers working as TMR workers and who have completed 500 days are required to be given status of RMR. The said policy contains detailed guidelines to be followed by the management while considering workers for regularization. During the course of arguments, it was not denied that several workmen have been regularized after issuance of the above policy by the management and in the contention of the learned A/R for the management, case of the claimant herein is not covered by the said policy. However, learned A/R for the management could not satisfy the court as to how the case of the claimant is not covered, particularly when award was earlier passed in favour of the claimant herein wherein he was granted reinstatement, including benefit of previous service. Hon'ble High Court has only reduced the back wages to 25% instead of 50% and has clarified in the judgment Ex.WW1/7 that the claimant is entitled for reinstatement on or before 02.04.2005 and claimant was also required to report to the Director (Personnel), North Delhi Municipal Corporation Palika Kendra, Parliament Street, New Delhi. This clearly shows that the claimant would be deemed to be in continuous service inasmuch as the claimant has reported for duties pursuant to the order passed by the Hon'ble High Court and this fact is clear from office order dated 08.08.2006 Ex.MW1/6, that he is taken on duty. Therefore, there is no merit in the contention of the management that the claimant herein was not fulfilling the necessary conditions required under the regularization policy.

12. There is another order dated 22.12.2009 Ex.MW1/2 issued by Director which shows that policy of regularization was being reviewed from time to time. It was being sent for framing policy by the Committee set up for the purpose and the Committee has also made report in this regard for regularization of the left over workers. It was thereafter that policy regarding conversion of TMR to RMR was made vide Ex.MW1/3.

13. It is further clear from pleadings on record as well as evidence of the claimant WW1 that he has been in continuous service from the date he initially joined services on 31.07.1985 till his first termination by the management in 1988 without assigning any reason. However, this Tribunal cannot ignore the fact that vide award Ex.WW1/6 as well as judgement of the Hon'ble High Court Ex.WW1/7, benefit of back wages has been accorded to the claimant herein, as such it does not lie in the mouth of the management to say that the claimant herein is not covered by the

regularization policy. As stated above, learned A/R for the management could not satisfy the court as to how the case of the claimant is not covered by the policy of regularization applicable to such workmen.

14. During the course of arguments, learned A/R for the claimant relied upon the judgement in NDMC vs. Budh Ram (Manu/DE/2565/2015) wherein also in a similar matter question of regularization was considered by the Hon'ble Apex Court as well as Hon'ble High Court. In the said case also, services of daily water/TMR was terminated on 31.08.1990 without assigning any reason and labour court has held termination to be totally illegal and unjustified vide award dated 07.01.2002. Thereafter, matter was taken in writ by the management and the findings rendered by the Tribunal was upheld and pleadings of the management of non-entitlement of the workman for regularization as turned down. In the said case, workman was seeking regularization from 04.10.1989, i.e. from the date he his juniors were regularized. Hon'ble High Court kept in mind the principle of equality as well as equal pay for equal work and upheld the award passed by the Industrial Tribunal and dismissed the writ filed by the management.

15. In Umralla Gram Panchayat vs. The Secretary, Municipal Employees Union(2015 LLR (449), Hon'ble Supreme Court dealt with the question of regularization of workmen engaged by the gram panchayat. It was observed by the Hon'ble Apex Court that it amounts to unfair trade practice to keep an employee casual or temporary for a long period and an employee cannot be temporary throughout his life if the nature of work is regular or perennial in nature. Same view appears to have been taken in Rajinder Singh vs. Union of India by the Hon'ble High Court of Delhi (2015) 1 LLJ 389).

16. Position in the present case is very clear. It is not the case of the management that the claimant was recruited in an irregular or an illegal manner. Rather in view of the previous orders of the Industrial Tribunal as well as judgement of the Hon'ble High Court of Delhi, he was to be given benefit of his previous service and order of previous termination on 05.03.1988 has been found to be totally illegal and unjustified. There is hardly any dispute with the provision of law that a daily wager/casual worker also falls within the definition of 'workman'. When management has regularized services of the other similarly situated employees, there is no legal justification to deny similar benefit to the claimant herein. It is not out of place to mention here that the claimant herein has put it almost 30 years of service since the time of his initial appointment in the year 1985. Accordingly, it is held that the claimant herein is not only entitled for regularization and denial of the same with retrospective effect with all consequential benefits is totally illegal and unjustified. It is clarified that benefit of regularization as per policy of regularization, discussed above, would be given when similar situated workers were regularized. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : January 3, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 612.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार 'इंडियन फार्मर्स फर्टिलाइजर कोऑपरेटिव लिमिटेड' के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 1211/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/287/2001-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st March, 2017

S.O. 612.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1211/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of Indian Farmers Fertilizer Co-operative Ltd. and their workmen, received by the Central Government on 28.02.2017.

[No. L-42012/287/2001-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 20th February, 2017

Reference: (CGITA) No. 1211/2004

The Sr. General Manager,
Indian Farmers Fertiliser Co-operative Ltd.,
Kandla (Gujarat) – 370210

.....First Party

V/s

Shri M.D. Parmar,
D-194, IFFCO Colony,
Udaynagar, Gandhinagar,
Kutch (Gujarat) - 370203

.....Second Party

For the First Party : Shri P.S. Gogia
For the Second Party : Shri Prabhatsinh Parmar

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/287/2001-IR(CM-II) dated 03.12.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of IFFCO, Kandla in terminating the services of Shri M.D. Parmar, Senior Technician w.e.f. 08.05.2000 is legal and justified? If not, to what relief the workman is entitled for and since when?”

1. The reference dates back to 03.12.2002 when the reference was received from the Ministry of Labour, Government of India, New Delhi. Notices were issued to all the parties.
2. The second party workman vide his statement of claim Ex. 7 alleged that the first party Indian Farmers Fertiliser Co-operative Ltd., Kandla, hereinafter referred to as “The Society” is a multi-state co-operative society registered under the Multi Unit Co-operative Society Act, 1942 which was engaged in the manufacture of chemical fertilisers. It was established in the year 1975 with 1500 workmen including the staff members. The Society is also governed by various labour laws like Factory Act, 1948, Payment of Wages Act, 1936 and Industrial Employment (Standing Orders) Act, 1948. The society has also got its standing orders certified under the aforesaid Industrial Employment (Standing Orders) Act, 1948; therefore, the relations between the society and its workmen are regulated by the said act and said certified standing orders. The second party workman M.D. Parmar joined the society on 15.09.1981 as apprentice. He was given regular employment as junior technician on 24.09.1988. He was confirmed as permanent junior technician Grade K at the same time. He was promoted to the Grade J in the year 1987 and on 01.02.1993; he was promoted and posted as senior technician. At the time of impugned order of termination of service, his last pay was Rs. 9926.29/-. He has alleged that he was served with a charge-sheet bearing no. KP/IR/62230/999 dated 05.08.1999 by Joint General Manager (KI) S.P. Yadav with a charge that he absented from duty unauthorisedly for 199 days from 01.04.1998 to 03.04.1999. He also alleged that he submitted the explanation on 27.08.1999 against the charge-sheet but the society appointed one Mr. L.K. Bhambhani as inquiry officer to inquire the charge-sheet vide letter no. KP/IR/62230/99 dated 02.09.1999 under the signature aforesaid S.P. Yadav. Inquiry officer Bhambhani fix the inquiry to be held on 16.09.1999 at 02:00 PM vide his letter dated 10.09.1999 but the inquiry officer commenced the inquiry at 12:15 PM of 16.09.1999 and concluded the inquiry on the same day. He has further alleged that the names of the witnesses were not disclosed in the charge-sheet and he became aware of the witnesses on the date of the inquiry. He was not given ample opportunities to cross-examine the witnesses. He has further alleged that the society issued show cause notice bearing no. KP/IR/62230/99 dated 16.10.1999 by aforesaid S.P. Yadav seeking his explanation as to why the punishment of dismissal of service be not awarded.

3. He further alleged in the statement of claim that he submitted explanation to the second show cause notice on 22.10.1999. The society vide its letter dated 17.12.1999 advised him to appear before Dr. Sanjay Barot for medical examination. He appeared before the Dr. Barot as per the directions. The society vide its letter dated 29.01.2000 informed him that the society has received the report of Dr. Barot who has reported that he (workman) has been suffering with reactive depression but the copy of the medical report was not supplied to him by Dr. Barot or the society. He was also not asked to submit his explanation to Dr. Barot's report and finally the society terminated his services vide its order no. KP/IR/62230/2000 dated 08.05.2000 under the signature of Joint General Manager (KII). He preferred appeal against the said order to the Managing Director of the society on 05.07.2000, same was rejected by the society vide its order no. KP/IR/2000 dated 19.10.2000 under the signature of Sr. Manager (P&A).

4. He has further alleged in the statement of claim that the society issued him a charge-sheet bearing no. KP/IR/62230/99 dated 05.08.1999, appointing Mr. L.K. Bhabhani as inquiry officer, well-versed in labour laws being law graduate and having held high offices in the management cadre in different company, charging him (workman) that he had remained absent from duty unauthorisedly for 199 days for the period from 01.04.1998 to 03.07.1999. The said inquiry officer made a formality of holding inquiry. He conducted the inquiry in haste and pre-poned the inquiry to 12:15 PM instead of 02:00 PM acting as a man of the society. He has further alleged that the sufficient, adequate and reasonable opportunity to defend was not given to him. The presenting officer did not act fairly as he acted in dual capacity by acting as presenting officer as well as a witness. He was not provided the copies of whole documents. The appeal was also disposed of casually without following the basic tenets of law.

5. The first party in his written statement Ex.9 brushed aside and denied all the averments made in the statement of claim regarding unfairness made in the inquiry as well as in awarding the punishment. He further alleged that the workman remained absent unauthorisedly for 98 days during the period from 01.01.1995 to 31.10.1995 for which he was issued charge-sheet dated 27.12.1995 with a direction to improve and to remain regular in attending his duties. Thereafter he remained absent unauthorisedly for 95 days during the period from 01.01.1997 to 30.09.1997 for which he was issued charge-sheet dated 12.11.1997 with a re-direction to improve and to remain regular in attending his duties. Thereafter again he remained absent unauthorisedly for 42 days during the period from 01.10.1997 to 31.03.1998 for which he was issued charge-sheet dated 14.15.1998 wherein after an inquiry he was punished with an imposition of stoppage of one increment without cumulative effect vide order dated 20.02.1999. It is further submitted that principles of natural justice were not followed in the departmental inquiry was false. It was conducted in fair and proper manner, after conducting the inquiry includes punishment was awarded.

6. The first party vide its Ex. 10 submitted the documents copy of charge-sheet No. KP/IR/62230/99 dated 05.08.1999 Ex. 61, copy of reply dated 27.08.1999 by Shri M.D. Parmar Ex. 62, acknowledged copy of inquiry order dated 02.09.1999 into the charge-sheet dated 05.08.1999 issued to Shri M.D. Parmar Ex. 63, acknowledged copy of letter dated 10.09.1999 by inquiry officer fixing the inquiry on 16.09.1999 Ex. 64, copy of the inquiry proceedings dated 16.09.1999 held into the charge-sheet dated 05.08.1999 wherein Shri M.D. Parmar has admitted the charges and acknowledged the receipt of the inquiry proceedings Ex. 65, copies of pay slips of Shri M.D. Parmar showing the deductions for his unauthorized absence Ex. 66 copies of muster roll showing the attendance/absence of Shri M.D. Parmar Ex. 67, copy of the inquiry report/findings dated 04.10.2004 Ex. 68, acknowledged copy of second show-cause notice dated 16.10.1999 issued by Shri M.D. Parmar Ex. 69, copy of reply dated 22.10.1999 by Shri M.D. Parmar Ex. 70, copy letter No. KP/IR/2000 dated 29.01.2000 to Shri M.D. Parmar regarding observation of his attendance for 3 months Ex. 71, copy of appeal dated 05.07.2000 preferred by Shri M.D. Parmar Ex. 72, copy of letter no. KP/IR/2000 dated 19.10.2000 to Shri M.D. Parmar regarding his appeal Ex. 73 and copy of termination letter no. KP/IR/62230/2000 dated 08.05.2000 Ex. 74 as all are exhibited being admitted by the second party.

7. The second party submitted the documents vide Ex. 13 original charge sheet no. KP/IR/62230/99 given by the first party to the second party along with annexure '1' Ex. 36, duplicate copy of the explanation given by the second party with reference to the charge sheet dated 05.08.1999 Ex. 37, original letter no. KP/IR/62230/99 written by the first party to the second party regarding appointment of Shri L.K. Bhabhani as inquiry officer Ex. 38, original letter dated 10.09.1999 received by the second party from inquiry officer Shri Bhabhani fixing dated of inquiry on 16.09.1999 Ex. 39, original second show cause notice given by first party to the second party proposing punishment along with enquiry officer's report dated 04.10.1999 Ex. 40, duplicate copy of explanation submitted by the second party with reference to second show cause notice Ex. 41, original letter no. KP/IR/99 written by the first party to the second party for appearing for medical examination before Dr. Sanjay Barot Ex. 42, original letter no. KP/IR/2000 written by the first party to the second party pursuant to the report of Dr. Sanjay Barot Ex. 43, duplicate copy of letter written by second party to the first party in connection with treatment for reactive depression Ex. 44, original order no. KP/IR/62230/2000 given by the first party to the second party terminating the services w.e.f. 08.05.2000 Ex. 45, duplicate copy of appeal made by the second party to the managing director of the first party Ex. 46 and original letter no. KP/IR/2000 dismissing the appeal of the second party Ex. 47 as all are exhibited being admitted by the second party.

8. The second party workman M.D. Parmar did not challenge the illegality of the inquiry. He simply challenged the quantity of the punishment which is alleged to be disproportionate to the misconduct alleged/labelled in the charge-sheet.

9. Therefore, on the basis of the pleadings and the charge-sheet, the following issues are to be addressed by way of passing award.

Issue No. i : Whether the punishment of terminating of service of the second party workman M.D. Parmar from services w.e.f. 08.05.2000 was disproportionate to the misconduct alleged in the charge-sheet?

Issue No. ii : Whether the action of the management of IFFCO, Kandla in terminating Shri M.D. Parmar, senior technician from services w.e.f. 08.05.2000 is legal and justified?

10. Both the issues no. i and ii are interrelated, therefore, are taken together for passing award. The burden to prove these issues were lying on the second party workman. Therefore, he submitted his affidavit Ex. 42 as an examination-in-chief which is absolute reproduction of the statement of claim Ex. 7 on oath. He has not said anything contrary to the statement of claim.

11. In rebuttal, the first party examined R.A. Ambwani, Deputy General Manager, Personnel and Administration by way of filing the affidavit Ex. 60 as an examination-in-chief wherein he also reiterated the averments made in the written statement Ex. 9. In his cross-examination he has not said anything contrary to the averments made in the written statement.

12. Both the parties have filed the written arguments Ex. 61 and 62 respectively.

13. It is noteworthy that the second party has challenged the legality of the inquiry in a cursory manner but has not disclosed the grounds and reasons as to what illegality or regularity was committed by the inquiry officer in the departmental proceedings. Therefore, I do not think necessary to go into the illegality or irregularity being committed in the departmental proceedings because the second party workman in his affidavit/examination-in-chief as well as in the cross-examination has not denied that he was not given the opportunity of submitting reply, cross-examining the witness, producing his witnesses in rebuttal and appearance. Therefore, it can easily say that the inquiry officer followed the principles of natural justice while conducting the departmental proceedings. It is also noteworthy that he has also admitted that he was given the copy of the inquiry report as well as he was served with the show-cause notice while awarding the punishment but he did not reply the show-cause notice.

14. Thus in the light of the discussions made in the Para 13, the limited questions remain to be answered as to whether the punishment awarded was adequate or was excessive and disproportionate to the misconduct.

15. The second party workman in his argument Ex. 62 has submitted in his Para 5 that the workman did not challenge the inquiry but wanted to see that the justice is done. From the inquiry report that the inquiry officer was an outsider representing the professional firm THE ODYSSEY to which he has no objection but the inquiry officer would have been trained in conducting the inquiry but same has not been clear from the reply of the first party. The inquiry officer gave his findings on the basis of the documentary evidence without any oral evidence and held him guilty. The inquiry report was based on presumptions, therefore, perverse in the absence of the oral evidence. He has also challenged the inquiry report on the ground that there was no formal charge-sheet, only show cause notice cum charge-sheet was served on him to submit the explanation but he has also added that wanted early dispensations of justice so not criticise the inquiry however finding and punishment his perverse being disproportionate to the misconduct.

16. The first party management answered the arguments of the second party by way of submitting the written arguments Ex. 61 stating that it was a case of long absence from the year 1995 to 1998 without authorisation. His conduct was also obstinate that he did not dare to appear in any of the inquiry proceedings from 1995 to 1997 indicating that he was not scared of any inquiry or action. In my view, such obstinacy permits the management to award the punishment of removal.

17. The learned counsel of second party also submitted the written argument Ex. 62. He argued that the inquiry was conducted in a hasty manner by conducting the proceedings in the day to day manner and therefore, violative of the principles of natural justice. Therefore, the inquiry proceedings were illegal. This argument has no force because it is an admitted fact that the second party workman was served with the charge-sheet giving him the opportunity to submit his explanation which he did not avail. Thereafter, he was also giving opportunity to appear and to participate with an opportunity to cross-examine and to give evidence in defence which he also did not avail. Thus the challenging the legality of the inquiry in a casual manner without disclosing the reasons without the support of an affidavit will not give him a right to challenge the inquiry. Thus as the inquiry proceedings have not been challenged by giving solid reasons, therefore, I find the inquiry proceedings as legal and just without violative of principles of natural justice.

18. The second and the last argument of the second party workman is that the punishment awarded was disproportionate to the misconduct or the charge labelled in the charge-sheet. This is an admitted fact that the second party workman absented from duty for 98 days during the period from 01.01.1995 to 31.10.1995 for which he was issued charge-sheet dated 27.12.1995 with a direction to improve and to remain regular in attending his duties. Thereafter he remained absent unauthorisedly for 95 days during the period from 01.01.1997 to 30.09.1997 for which he was again issued charge-sheet dated 12.11.1997 with a re-direction to improve and to remain regular in attending his duties. Thereafter again he remained absent unauthorisedly for 42 days during the period from 01.10.1997 to

31.03.1998 for which he was issued charge-sheet dated 14.15.1998 wherein after an inquiry he was punished with an imposition of stoppage of one increment without cumulative effect vide order dated 20.02.1999. Thus the second party workman absented unauthorisedly for 235 days in the past and present too during the period from 01.01.1997 to 31.03.1998. This conduct indicates that the second party workman was habitual in absenting from the duty without taking prior sanction. It is a noteworthy that second party workman was habitual absentee and it might be possible that he would have been expressing his muscle power by absenting unauthorisedly showing that management cannot harm him. Such conduct cannot be said to be tolerable in the best management of the industry because it is quite natural that the other works force may follow him.

19. The argument that the punishment is excessive has been supported by the learned counsel by way of his judgement *Sardar Singh Dev Singh V/s District Superintendent of Police 1995 Gujarat LH 940* wherein the Gujarat High Court held that absence of 150 days unauthorisedly by a constable will not make the case of dismissal and the penalty was treated as harass.

20. The learned counsel of the second party has also referred that *Mavji C. Lakum V/s Central Bank of India (2009) 1 SC C (L&S) 254* wherein the Industrial Tribunal interfered in the punishment awarded and reduced the punishment of discharge from service to with-holding of one year increment. The Hon'ble Supreme Court upheld the judgement of the tribunal. He further referred *Krishankant B. Parmar V/s Union of India (2012) 1 SC C (L&S) 609* wherein the apex court held that the conduct of appellant who unauthorisedly absented from duty during the consecutive periods – 36 days, 32 days and 34 days was unlike of the government servant and if the absence was not wilful, relief can be granted.

21. The learned counsel of the second party workman further referred that *General Manager V/s Dasrathbhai Somjibhai Bhim, Civil Application Number 8604 of 2005 with Special Civil Application Number 18941 of 2005* wherein the Gujarat High Court held that there appears to be a limited scope of interference in Article 226 and 227 of the Constitution of India, this court is unable to dislodge the findings otherwise the workman is also not appearing to be so innocent, as it seems from the record that, he may be given a cakewalk. On the contrary, the Authority has stated that he must be visited with some penalty, of course not that of dismissal, but it is reflected from records that he has suppressed the fact of criminal case in which serious charge of theft was entangled and further there are specific finding of the learned Presiding Officer in the course of inquiry that the charge levelled against the workman is proved. Of course, it is a different matter that power under Section 11-A of the Act, to be exercised by the Tribunal, but the factum of charge have proved during the course of inquiry, at least in the opinion of this court, he must be deprived of the full benefits and therefore, order passed by the learned Presiding Officer to that extent is just whereby 50% back wages having been awarded. In the opinion of this court, the order passed by the learned Presiding Officer does not call for any interference and this material fact to be taken note of that there is specific purshis given by the respondent workman whereby the validity of the inquiry has not been questioned and therefore, the order passed by the Tribunal is in consonance with the duty discharge to its statutory discretion and same is not required to be interfered with. Therefore, looking to overall set of circumstance, this Court is of the opinion that the order passed by the learned Presiding Officer is not required to be interfered with. The case law relied upon by the learned advocate for the respondent workman is in different set of circumstance qua the case on hand and therefore, same are not of avail. It is settled law that if slight change in facts, it would make world of difference in applying precedent. Therefore, in the background of fact of those particular case, are quite distinct from the fact of the case on hand and therefore, this court is of the opinion that the petition presented by the workman being devoid of merits and same deserves to be dismissed.

22. The learned counsel for the first party referred number of decisions however I would like to refer *UPSRTC V/s Vinod Kumar 2008 LLR 121 SC* wherein the apex court held that since respondents has not challenged the correctness, legality and validity of the inquiry conducted, therefore, the labour court cannot go in to the findings recorded by the inquiry officer. It was also observed that there is no place for generosity or misplaced sympathy on the part of judicial forms to interfere with the quantum of punishment. Similar ratio was expressed in *Employers Management, West Bukaro Colliery of TISCO Ltd. V/s workman Rampervesh Singh 2008 LLR 432 SC*.

23. In *Chairman and MD B.S.T. and others V/s GopaRaju Shri Prabhakra Haribabu 2008 LLR 715 SC* wherein the apex court held that respondents was a habitual absentee. He had not submitted his explanation of illness of his mother in the departmental inquiry despite granting opportunity to him and failure to comply the order of reporting on duty. He also failed to explain his prior conduct; such conduct was held sufficient to pass order of dismissal.

24. In *General Secretary, South Indian Cashew Factories Workers Union V/s The Managing Director, Kerala State Cashew Development Corporation Ltd., 2006 LLR 657 SC* wherein the apex court held that Merely because the inquiry officer is an employee of the management, it cannot lead to the assumption that he is bound to decide the case in favour of the management since it is well-known that inquiries are generally conducted by officers of the employer companies and in the absence of any special bias attributable to a particular officer, it has never been held that the inquiry is bad just because it is conducted by an officer of the employer. When the plea that inquiry officer was biased was not raised during the inquiry or pleadings before the Labour Court or in earlier proceedings before the High Court hence no cognizance is taken of the allegations. If the inquiry is fair and proper, in the absence of any allegations of victimisation or unfair labour practice, the labour court has no power to interfere with the punishment imposed. Although Section 11

A of the Industrial Disputes Act gives ample power to the Labour Court to re-appraise the evidence adduced in the inquiry and also sit in appeal over the decision of the employer in imposing punishment. Section 11 A of the Industrial Disputes Act empowers the Labour Court/ Tribunal to give appropriate relief in case of dismissal or discharge of a workman as clearly mentioned in the section itself.

25. In the State Bank of Mysore V/s M.C. Krishnappa 2011 (ii) CLR 859 apex court held that it is a well settled principle that punishment is primarily a function of the management and the courts really interfere with the quantum of punishment. Similarly in Delhi Transport Corporation V/s Subhas Chand 2011 LLR 341, the Delhi High Court held that it is a well settled law that a court will not normally sit in the appeal over the findings arrived at by the inquiry officer. Since the court is not required to examine or re-examine the evidence adduced before the inquiry officer and it is only in exceptionable cases when the findings of the inquiry officer are found perverse or opposed to the principle of natural justice. Only then interference is warranted by the courts since the jurisdiction of the court is ousted in such cases.

26. In State Bank of Bikaner V/s Nemichand Nalwaya 2011 LLR 634 SC wherein the apex court has held that in the matter of disciplinary proceedings, the courts cannot sit as an appellate court to re-assess the evidence produced in the inquiry. It cannot also interfere with the ground that any view is possible on the basis of the material on record. It was also held that as and when the punishment has been imposed upon an employee after holding of an inquiry, the courts have restricted powers and can interfere only when the finding was found perverse or based on no evidence and also when the principles of natural justice are not followed.

27. In North Eastern Karnataka R.T. Corporation V/s Ashappa 2006 LLR 744 and 2006 (J) SC C 137, the supreme court held that long absence continuous and unauthorised of an employee from duty running public utility services to the passengers by plying buses will amount to major misconduct as such the labour court wrongly directed the reinstatement. Reinstatement of a driver absenting for a long period even without back wages is unjustified.

28. In Delhi Transport Corporation V/s Sardar Singh 2004 LLR 953 SC, the apex court held that non approval of dismissal of a workman by the Industrial Tribunal was not justified when the workman has frequently absented himself. Merely because the absence of a workman was treated as leave without pay for the purpose of maintaining correct record by the management, it does not absolve a workman from the misconduct of his absence. When an employee habitually absents himself from duty even without sanctioned leave for very long, it prima facie shows negligence and lack of interest in work and in departmental proceedings to treat it as misconduct was not an unjustified view.

29. I considered the evidence and arguments of both the parties. This is a case of repeated unauthorised long absence from duty by an employee. His conduct of long absence appears to be of obstinate nature because he was thrice charge-sheeted and admonished or punished with minor penalty but he did not try to improve his conduct, therefore, there is no case of interference in the punishment awarded by the management. Thus the reference is disposed of with the observation as under: "the action of the management of IFFCO, Kandla in terminating Shri M.D. Parmar, senior technician from services w.e.f. 08.05.2000 is legal and justified."

30. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 613.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असानसोल के पंचाट (संदर्भ सं. 94/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/403/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st March, 2017

S.O. 613.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the management of M/s. ECL and their workmen, received by the Central Government on 28.02.2017.

[No. L-22012/403/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL****PRESENT :** Sri Pramod Kumar Mishra, Presiding Officer**REFERENCE NO. 94 OF 2005****PARTIES :**

The management of J. K. Ropeways of M/s. E.C.L.

v/s

Sri Amritlal Satnamy

REPRESENTATIVES :

For the management : Sri Indrajit Mukherjee, Learned Advocate

For the union (Workman) : Sri Amritlal Satnamy

Industry: Coal

State : West Bengal

Dated : 13.02.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **NO. L-22012/403/2004-IR(CM-II)** dated 17.08.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of J. K. Ropeways of M/s. Eastern Coalfields Limited Coalfields Limited not providing employment to Sh. Amritlal Satnamy dependent of Late Malik Ram is legal and justified? If not, to what relief he is entitled to?”

1. Having received the Order **NO. L-22012/403/2004-IR(CM-II)** dated 17.08.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **94 of 2005** was registered on 09.09.2005. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The applicant Sri Amritlal Satnamy dependent son of Late Malik Ram, deceased employee of J. K. Ropeways of M/s. Eastern Coalfields Limited has filed written statement. He has alleged in his written statement that Smt. Ganga Bai the widow of deceased employee applied for employment by nominating Sri Amritlal Satnamy in place of her deceased husband. On death of Late Malik Ram his dependent son Sri Amritlal Satnamy filed his application with all documents for employment under the provisions of National Coal Wage Agreement. But till now J. K. Ropeways of M/s. Eastern Coalfields Limited management has not provided him employment. J. K. Ropeways of M/s. Eastern Coalfields Limited has violated rules and regulations. The applicant has prayed that action of management is illegal and unjustified. The Award should be passed to provide employment to Sri Amritlal Satnamy, the dependent son of Late Malik Ram.

3. The Agent of J. K. Ropeways of M/s. Eastern Coalfields Limited has alleged in his written statement that reference is misconceived and not maintainable. The workman Late Malik Ram son of Sri Halal Khole, resident of Vill:- Bara Rubeli, Po: Pirdha, Dist: Bilaspur, Madhya Pradesh was an employee of J. K. Ropeways of M/s. Eastern Coalfields Limited. He expired on 09.03.1998 at Parasea Colliery of M/s. Eastern Coalfields Limited. After the death of said workman his widow Smt. Ganga Bai applied for employment on compassionate ground by nominating her son Sri Amritlal Satnamy in place of the deceased workman. Upon receipt of the said application for employment, the management of J. K. Ropeways of M/s. Eastern Coalfields Limited initiated measures for processing the application. In course thereof, a complaint was received by the management that the deceased workman Late Malik Ram was a fake person. Deceased Late Malik Ram impersonated the real Sri Malik Ram who was still alive at his native village within Bilaspur district in Madhya Pradesh. The management of J. K. Ropeways of M/s. Eastern Coalfields Limited requested the competent authority of J. K. Ropeways of M/s. Eastern Coalfields Limited for verification. Matter was

sent for police verification to Superintendent of Police, D.I.B., Burdwan, West Bengal and Superintendent of Police, Bilaspur, Madhya Pradesh. But even after successive reminders the management J. K. Ropeways of M/s. Eastern Coalfields Limited did not receive any police verification report from both Superintendents of Police. Office of Superintendent of Police, D.I.B., Burdwan informed that such types of verification are entertained by them if the request is received through the office of the District Magistrate of Burdwan. Therefore management of J. K. Ropeways of M/s. Eastern Coalfields Limited wrote Letter No. ECL/GM/JKR/PER/2000/2054/339 dated 08.05.2000 with a request for verification of death of alleged Late Malik Ram. But even after successive reminders no police verification was received. In absence of verification report the employment was not offered to Sri Amritlal Satnamy. The non-employment of Sri Amritlal Satnamy is not at all illegal and unjustified. Sri Amritlal Satnamy can not be granted employment. The Agent of J. K. Ropeways of M/s. Eastern Coalfields Limited has prayed that workman is not entitled for employment as prayed by him.

4. The applicant has filed the following documents :-

(i) Photocopy of the Cremation Certificate of Late Malik Ram, (ii) Photocopy of the I.D. Card of Late Malik Ram, (iii) Photocopy of the S.R.E. of Late Malik Ram, (iv) Photocopy of the Voter I.D. Card of Late Malik Ram, (v) Photocopy of the Relationship Certificate of Sri Amritlal Satnami son of Late Malik Ram Satnami, (vi) Photocopy of the No Objection Certificate from surviving family members of Late Malik Ram in favour of Amritlal Satnami, (vii) Photocopy of the School Certificate of Sri Amritlal Satnami, (viii) Photocopy of the Affidavit of Sri Amritlal Satnami, (ix) Photocopy of the Indemnity Bond signed by two literate permanent employees regarding genuinity of Relationship, (x) Photocopy of the Letter for appearing before the screening committee for the purpose of employment, (xi) Photocopy of the Relationship Certificate of Smt Ganga Bai wife of Late Malik Ram, (xii) Photocopy of the Pension Settlement Letter in favour of Smt. Ganga Bai wife of Late Malik Ram, (xiii) Photocopy of the Voter Identity Card of Smt. Ganga Bai, (xiv) Photocopy of the Photo Identity Certificate from Office of the Gram Panchayat, Bara Rubeli, (xv) Photocopy of the Certificate dated 03.07.2013 from Gram Panchayat, Bara Rubeli, (xvi) Photocopy of the Letter ECL/GM/JKR/Per/2000/2054/339 dated 08.05.2000, (xvii) Photocopy of the letter of Superintendent of Police, D.I.B., Burdwan dated 25.04.2000, (xviii) Photocopy of the letter ECL/GM/JKR/Per/99 dated 29.09.1999, (xix) Photocopy of the letter Ref. No. ECL/GM/JKR/Per/98/1001/1727 dated 14/15.10.1998, (xx) Photocopy of the letter Ref. ECL/PC/P&IR/14/98-99/2025 dated 10.06.1998, (xxi) Photocopy of the Identity Card of Late Malik Ram issued by M/s. Eastern Coalfields Limited, (xxii) Photocopy of the S.R.E. dated 24.04.1987, (xxiii) Photocopy of the Death Certificate of Late Malik Ram, (xxiv) Photocopy of the Ninth Schedule Form-I for Vocational Training of Late Malik Ram, (xxv) Photocopy of the letter Ref. No. ECL/JKR/Screening/99/3263 dated 16/18.03.1999, (xxvi) Photocopy of the Mines Vocational Training Certificate of Late Malik Ram

The applicant Sri Amritlal Satnami, the applicant has filed affidavit in his oral evidence and he has been cross-examined by the learned advocate of the M/s. Eastern Coalfields Limited.

The Agent of J. K. Ropeways of M/s. Eastern Coalfields Limited has filed following documents:-

(i) Photocopy of the claim of employment by Smt. Ganga Bai wife of Late Malik Ram, (ii) Photocopy of the complaint received by the management, (iii) Photocopy of the letter to the Superintendent of Police, D.I.B., Burdwan for police verification, (iv) Photocopy of the letter to the Superintendent of Police, Bilaspur, Madhya Pradesh for police verification, (v) Photocopy of the Reply from the office of Superintendent of Police, D.I.B., Burdwan, (vi) Photocopy of the letter Ref. ECL/GM/JKR/Per/2000/2031/98 dated 11/12.04.2000 (vii) Photocopy of the successive reminders.

The Agent of J. K. Ropeways of M/s. Eastern Coalfields Limited has not filed any oral evidence.

5. Sri Amritlal Satnami, the applicant has appeared in person before the Tribunal and argued the case. He has also filed written argument. Sri Indrajit Mukherjee, learned advocate appeared on behalf of the management of J. K. Ropeways of M/s. Eastern Coalfields Limited and filed written argument. I have heard the argument of both sides.

6. It is admitted fact by both the parties that the workman Late Malik Ram, son of Sri Halal Khole, resident of Vill:- Bara Rubeli, Po: Pirdha, Dist: Bilaspur, Madhya Pradesh was an employee of J. K. Ropeways of M/s. Eastern Coalfields Limited. He expired on 09.03.1998 at Parasea colliery of M/s. Eastern Coalfields Limited. It is also admitted by both the parties that on the death of the said workman his widow Smt. Ganga Bai applied for employment on compassionate ground by nominating her son Sri Amritlal Satnami in place of the deceased workman. The basis of denial of employment to the applicant Sri Amritlal Satnami, the applicant by J. K. Ropeways of M/s. Eastern Coalfields Limited is that one Late Malik Ram son of Sri Halal Khole made a complaint that deceased Late Malik Ram the employee of J. K. Ropeways of M/s. Eastern Coalfields Limited was a fake person. He procured the job by impersonation. The real Malik Ram is still alive. For verification of complaint J. K. Ropeways of M/s. Eastern Coalfields Limited moved the application to Superintendent of Police, D.I.B., Burdwan and Superintendent of Police

Bilaspur, Madhya Pradesh for verification of the facts. But due to non-availability of verification report the employment to applicant Sri Amritlal Satnami was not offered rather it was kept in abeyance.

7. Rule 9.3.4 of National Coal Wage Agreement - V entitles the dependent of deceased workman which is as follows :-

“The dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as given in Clause 9.5.0. In so far as male spouse is concerned, there would be no age limit regarding provision of employment.”

8. As per service excerpts maintained by J. K. Ropeways of M/s. Eastern Coalfields Limited and copy filed by the applicant it is apparent that Late Malik Ram, the deceased employee was son of Sri Halal Khole. He was resident of Vill:- Bara Rubeli, Po: Pirdha, Dist: Bilaspur, Madhya Pradesh. The name of his wife is Smt. Ganga Bai. The names of his sons are Sri Hiralal Ram and Sri Amritlal Satnami. The copy of Voter I.D. Card has been filed. The applicant has filed the Death Certificate of Late Malik Ram issued by the competent authority. In the records maintained by J. K. Ropeways of M/s. Eastern Coalfields Limited the paternity and address of the deceased employee is entered therein. The applicant Sri Amritlal Satnami has filed copy of certificate issued by West Bengal Board of Secondary Education. The father of Sri Amritlal Satnami is Late Malik Ram as per school certificate and his date of birth is 09.08.1974. The Gram Panchayat, Bara Rubeli, Madhya Pradesh has issued certificate. The *Sarpanch* has certified that the father of Sri Amritlal Satnami, Late Malik Ram was functioning in J. K. Ropeways of M/s. Eastern Coalfields Limited for near about 25 years. He expired on 09.03.1998. He has verified the photo of Late Malik Ram. The *Sarpanch*, Gram Panchayat, Bara Rubeli, Janpad Panchayat Malkharouda has issued certificate that Late Malik Ram the father of Sri Amritlal Satnami expired on 09.03.1998 in West Bengal and cremation was performed in village: Bara Rubeli, Madhya Pradesh at present in this village there is no other person named Malik Ram son of Sri Halal Khole. This certificate is issued on 03.07.2013. The applicant has filed affidavit in his oral evidence. He has supported the death and relation certificate in his oral evidence. He has been cross-examined by the learned advocate of J. K. Ropeways of M/s. Eastern Coalfields Limited. The evidence of Sri Amritlal Satnami is trustworthy.

9. It is evident from material available on record that complainant so called Malik Ram never appeared before authorities concerned to substantiate his allegation. Even J. K. Ropeways of M/s. Eastern Coalfields Limited did not care to summon the complainant to verify the truthfulness of allegation. Even J. K. Ropeways of M/s. Eastern Coalfields Limited did not care to verify the certificate issued by the *Sarpanch*, Gram Panchayat, Bara Rubeli, Janpad Panchayat Malkharouda who has certified that in village Bara Rubeli there is no other person in the name of Malik Ram son of Sri Halal Khole. In government undertaking, only after police verification and other formalities any person is allowed to join the job. At the time of joining of Late Malik Ram the deceased workman the verification and all other formalities must have been completed. After verification the deceased workman Late Malik Ram must have joined in J. K. Ropeways of M/s. Eastern Coalfields Limited. It is surprising that after death of Late Malik Ram, during service, the employment to dependent of deceased workman is denied on basis of un-verified anonymous complaint. Personnel Manager of J. K. Ropeways of M/s. Eastern Coalfields Limited by letter no. ECL/JKR/Screening/99/3263 dated 16/18.03.1999 informed Sri Amritlal Satnami son of Late Malik Ram ex-workman to appear before the Screening Committee along with original documents on 26.03.1999 at 03:00 PM. This letter indicates that the employment proposal of Sri Amritlal Satnami was considered by the competent authority on 26.03.1999. The date of birth of Sri Amritlal Satnami, the applicant as recorded in certificate of West Bengal Board of Secondary Education is 09.08.1974. In year 1999 when his employment proposal was considered he was near about 25 years of age. As per National Coal Wage Agreement - V at the time of consideration of employment dependent should not be more than 35 years of age. Therefore at that relevant period Sri Amritlal Satnami was eligible for employment.

10. In light of above discussion the action of J. K. Ropeways of M/s. Eastern Coalfields Limited in not providing employment to Sri Amritlal Satnami dependent of Late Malik Ram is illegal and unjustified. Sri Amritlal Satnami is entitled for employment.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 614.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 76/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 28.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/371/1998-आई.आर. (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st March, 2017

S.O. 614.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 76/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the management of M/s. ECL and their workmen, received by the Central Government on 28.02.2017.

[No. L-22012/371/1998-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 76 OF 1999

PARTIES :

The management of Khas Kajora of Kajora Area of M/s. E.C.L.

v/s

Sh. Paltan Munda

REPRESENTATIVES :

For the management : Sri P.K. Das, Learned Advocate

For the union (Workman) : Sri M. Mukherjee, Learned Advocate

Industry: Coal

State : West Bengal

Dated : 09.02.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter **NO. L-22012/371/98 - IR(CM-II)** dated 07.07.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Khas Kajora Colliery of Kajora Area of ECL in dismissing Sh. Paltan Munda, Underground Loader, is legal and justified? If not, to what relief is the workmen entitled?”

1. Having received the Order **NO. L-22012/371/98 - IR(CM-II)** dated 07.07.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. **76 of 1999** was registered on 23.07.1999/18.09.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

2. On perusal of the record it is found that my predecessor (Late Jayanta Kumar Sen, the then Presiding Officer) of this Tribunal had reserved an award in this case because the workman/union was neither appearing nor taking any step since long (i.e. after 02.11.2006). It seems that the workman/union has now no more interest to proceed with the case further. The case is also too old – in the year 1999 & I find no reason to keep this old record pending without any outcome.

3. As such the case is closed and accordingly a ‘**No Dispute Award**’ is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 615.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 28/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/9/2008-आई.आर. (सीएम-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st March, 2017

S.O. 615.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 28/2008) of the Central Government Industrial Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. ECL, and their workman, received by the Central Government on 28.02.2017.

[No. L-22012/9/2008-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE No. 28 OF 2008

PARTIES : The management of Pure Searsole Colliery of M/s. E.C.L

V/s

Late Md. Jabbar Ansari

PEPRESENTATIVES :

For the management : Sri P.K. Goswami, Learned Advocate

For the union (Workman) : Sri S.K. Pandey, Union Representative

INDUSTRY : COAL STATE : WEST BENGAL

Date : 08-02-2017

A W A R D

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter **No. L-22012/9/2008-IR(CM-II)** dated 03.06.2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Pure Searsole Colliery of M/s. ECL by denial of employment to the dependent of deceased workman, Late Sri Md. Jabbar Ansari, is legal and justified? To what relief is the dependent of the deceased workman entitled? ”

1. Having received the Order **No. L-22012/9/2008-IR(CM-II)** dated 03.06.2008 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **28 of**

2008 was registered on 11.06.2008/13.04.2009. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The dependent, Smt. Akmar Bibi alias Akman Bibi widow of deceased workman Late Md. Jabbar Ansari has stated in her written statement that her husband, Late Md. Jabbar Ansari was a permanent employee of Pure Searsole Colliery of M/s. Eastern Coalfields Limited. He was working as Under Ground Loader bearing U.M. No. 380270. He expired on 24.05.1994 during service period of company. After the death of Late Md. Jabbar Ansari his widow Smt. Akmar Bibi alias Akman Bibi applied for employment in place of her deceased husband as his dependent under the provisions of National Coal Wage Agreement supported by all documents before the management relating to her claim for employment in the prescribed proforma as per norms of the company. The management duly processed the proposal for employment and the same was forwarded to M/s. Eastern Coalfields Limited Head Quarter for their approval by the Area Authority after observing all formality. As per provisions of National Coal Wage Agreement, 1 (one) dependent member of the deceased employee is entitled to get employment. Said agreement is binding upon the management and the same is fully enforceable as per provisions of law. In spite of observing all formalities the management without any justification turned down the employment proposal vide Letter No. JMR/Agent/per/05/212 dated 16/20.04.2005. The management informed the widow of the deceased employee that her proposal for employment claim was not considered by the competent authority of the company without assigning any reason for rejection of the claim of her employment. The action of management was whimsical and arbitrary. The widow dependent was eligible for employment as per National Coal Wage Agreement. The widow of the deceased employee is passing her days with acute financial stringencies. She is helpless widow and has no means of her livelihood. She is at the stage of starvation. Due to whimsical act of management the widow of the deceased employee has been deprived of her legitimate claim for employment. The applicant has prayed that the tribunal may pass order by directing the management to give employment to the dependent widow as well as to award adequate monetary compensation to the widow of deceased employee for not giving employment.

3. The Agent of J. K. Nagar (R) Mines of M/s. Eastern Coalfields Limited has stated in his written statement that the claim can not be adjudicated within the ambit of the provisions of Industrial Dispute Act, 1947. The Agent has admitted in his written statement that Late Md. Jabbar Ansari was a permanent employee of Pure Searsole Colliery of M/s. Eastern Coalfields Limited as Under Ground loader and he expired on 24.05.1994 while he was in service of the company. He has also admitted that the widow of the deceased employee has submitted her claim under National Coal Wage Agreement. Her proposal for employer was forwarded stating inter alia all the details of ex-employee Late Md. Jabbar Ansari but the competent authority did not accord their consent on the proposal for employment of Smt. Akmar Bibi alias Akman Bibi. The ground for refusal was that during life time of Late Md. Jabbar Ansari he declared name of his family member in S.R.E. but there was some glaring discrepancies towards the name and relationship. Due to frivolous relationship ex-employee obtained L.T.C. and L.L.T.C., causing financial loss to the management. The action of management by not offering employment is justified.

4. The applicant has filed the following documents :-

(i) Photocopy of the letter of the Personnel Manager dated 16/20.04.2005, (ii) Photocopy of the certificate by Block Development Officer, Dewri, (iii) Photocopy of the S.R.E. maintained by the Pure Searsole Colliery of M/s. Eastern Coalfields Limited, (iv) Copy of the Voter's Identity Card.

Smt. Akmar Bibi alias Akman Bibi the dependent widow of Late Md. Jabbar Ansari has filed affidavit in her oral evidence and she has been cross-examined by the learned advocate of the management.

The Agent of Pure Searsole Colliery of M/s. Eastern Coalfields Limited has not filed any documentary or oral evidence.

5. I have heard Sri S. K. Pandey, learned union representative on behalf of the dependent of the deceased workman and Sri P. K. Goswami, learned advocate on behalf of the management of M/s. Eastern Coalfields Limited.

6. Sri S. K. Pandey, representative of the dependent of the deceased workman has argued that as per National Coal Wage Agreement Smt. Akmar Bibi alias Akman Bibi widow of Late Md. Jabbar Ansari is entitled for employment in M/s. Eastern Coalfields Limited. The action of management of Pure Searsole Colliery of M/s. Eastern Coalfields Limited has arbitrary and whimsically refused the employment proposal duly forwarded and recommended by General Manager of concerned area. Even management has not assigned any reason for refusal. On the other hand Sri P. K. Goswami, learned counsel of the management has argued that at present the dependent Smt. Akmar Bibi alias Akman Bibi is over age. She is not entitled for employment as per National Coal Wage Agreement. In reply Sri S. K. Pandey has argued that at the time of employment proposal when Smt. Akmar Bibi alias Akman Bibi applied for employment she was very well within the age group prescribed by National Coal Wage Agreement. She is eligible for employment. Delay has been caused by management of M/s. Eastern Coalfields Limited for which dependent of deceased employee must not suffer.

7. It is admitted fact by both her parties that the deceased workman Late Md. Jabar Ansari was a permanent employee of Pure Searsole Colliery of M/s. Eastern Coalfields Limited and he was working as Under Ground loader bearing U. M. No. 380270. It is also admitted fact that Late Md. Jabar Ansari expired on 24.05.1994 during employment of Pure Searsole Colliery of M/s. Eastern Coalfields Limited. It is also admitted fact by both the parties that widow of deceased Late Md. Jabar Ansari i.e. Smt. Akmar Bibi alias Akman Bibi submitted her claim for employment as per provisions of National Coal Wage Agreement. The Agent of J. K. Nagar (R) Mines of M/s. Eastern Coalfields Limited has admitted in Para - 5 of his written statement that Smt. Akmar Bibi alias Akman Bibi had submitted her employment proposal under provisions of National Coal Wage Agreement. Rule 9.5.0 of National Coal Wage Agreement - VI is as follows :

“ Provision of employment / monetary compensation to female dependants of workmen who die while in service and who are declared medically unfit as per Clause 9.4.0 would be regulated as under :

- (i) *In case of death due to mine accident, the female dependant would have the option to either accept the monetary compensation of Rs.4,000/- per month or employment irrespective of her age.*
- (ii) *In case of death / total permanent disablement due to cause other than mine accident and medical unfitness under clause 9.4.0, if the female dependant is below the age of 45 years she will have the option either to accept the monetary compensation of Rs.3,000/- per month or employment. ”*

8. Form perusal of above terms it is evident that female dependent of any employee is entitled for employment till 45 years of her age. If she is above 45 years of her age at the time of death of deceased employee she is only entitled for monetary compensation. The applicant has filed Certificate of Block Development Officer, Dewri that Smt. Akman Bibi wife of Late Md. Jabar Ansari, age 25 years, resident of Vill: Velwaghati, Po: Jagsimar, Ps: Dewri, Dist: Giridih, Jharkhand. This certificate has been issued on 23.09.1994. The copy of S.R.E. has been submitted by the applicant. The S.R.E. has been prepared after the death of deceased employee Late Md. Jabar Ansari in year 1998. The date of initial appointment of Late Md. Jabar Ansari is recorded as 08.01.1991 and date of death is recorded as 24.05.1994. The name Smt. Akman Bibi is recorded as wife of late Late Md. Jabar Ansari. Her date of birth / Age has recorded in S.R.E. as 32 years in the year 1998. It reflects that in S.R.E. maintained by Pure Searsole Colliery under Satgram Area of M/s. Eastern Coalfields Limited the date of birth / age of Smt. Akman Bibi widow of deceased workman Late Md. Jabar Ansari was recorded as 32 years. It is clear that when Smt. Akmar Bibi alias Akman Bibi applied for employment she was under 45 years of her age. By the copy of letter Ref. No. JMR/AGENT/PER/05/212 dated 16/20.04.2005 the Personnel Manager, Jemehari Admin Office has informed Smt. Akmar Bibi alias Akman Bibi that her employment proposal was refused by M/s. Eastern Coalfields Limited, vide letter no. SAT/PER/EMPL/8054/4038/05/1704 dated 11/12.04.2004. This indicates that in year 2004 when her employment proposal, though it was kept pending for a long period, even in 2004 when it was refused the age of Smt. Akmar Bibi alias Akman Bibi was approximately 38 years. Even the refusal was communicated after a long interval of 1 (One) year the in April, 2005.

9. As per S.R.E. the age of Smt. Akmar Bibi alias Akman Bibi in 2005 would be 39 years. Therefore there is no substance in argument of Sri P. K. Goswami, learned counsel of the management that at the time of considering employment the widow Smt. Akmar Bibi alias Akman Bibi was ineligible due to over age. After failure of reconciliation proceeding the ministry referred the dispute which is registered in the Tribunal as Reference. No. 28 of 2008. The date of birth of Smt. Akman Bibi as recorded in S.R.E. is 32 years in the year 1998. The dispute has been referred by the competent authority in the year 2008. Therefore even at the time of referring the dispute the age of Smt. Akmar Bibi alias Akman Bibi would be approximately 42 years. Whereas as per National Coal Wage Agreement female dependent will eligible for employment below 45 years. If delay is caused the Agent of Pure Searsole Colliery of M/s. Eastern Coalfields Limited due to whimsical and arbitrary action then dependent can not be blamed without her fault.

10. Smt. Akmar Bibi alias Akman Bibi has filed affidavit. She has supported the allegation of written statement by her affidavit. She has stated that after death of her husband she applied for employment which was duly forwarded to M/s. Eastern Coalfields Limited Headquarter but the management arbitrarily refused the employment proposal without assigning any valid reason. The action of management violates the provisions of National Coal Wage Agreement. She has no means of livelihood. She has no independent source of income. All other family members mentioned in the S.R.E. are dependent on her and residing with her. She is still unemployed.

11. The Agent of J. K. Nagar (R) Mines of M/s. Eastern Coalfields Limited has stated in Para-7 of his written statement that ground for refusal of her employment proposal is that during lifetime of Late Md. Jabar Ansari he declared name of his family members in S.R.E. but there are some glaring discrepancies over the name and relationship. The allegation contained in written statement of Agent of J. K. Nagar (R) Mines of M/s. Eastern Coalfields Limited is absolutely in contradiction with the particulars mentioned in S.R.E. maintained by Pure Searsole Colliery of M/s. Eastern Coalfields Limited and submitted by applicant. From perusal of S.R.E. there appears to be no discrepancies which has been alleged by the Agent of J. K. Nagar (R) Mines of M/s. Eastern Coalfields Limited in his written statement. Even the refusal letter dated 16/20.04.2005 there is no recital of discrepancies.

12. In view of discussion above the action of management of Pure Searsole Colliery of M/s. Eastern Coalfields Limited by denial of employment to the dependent widow of the deceased workman Late Md. Jabar Ansari is illegal and unjustified. The widow dependent of Late Md. Jabar Ansari namely Smt. Akmar Bibi alias Akman Bibi is entitled for employment in M/s. Eastern Coalfields Limited. She is also entitled for monetary compensation till joining employment.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 फरवरी, 2017

का.आ. 616.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 14/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/256/2002-आई.आर. (सीएम-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 616.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Western Coalfields Limited, and their workman, which was received by the Central Government on 27.02.2017.

[No. L-22012/256/2002-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/14/2006

General Secretary,
RKKMS (INTUC),
PO Chandametta,
Distt. Chhindwara

...Workman

Versus

The Area Manager,
Chandametta Colliery of WCL,
Pench Area, PO Dungaria,
Distt. Chhindwara

...Management

A W A R D

Passed on this 15th day of December, 2016

1. As per letter dated 28-4-2006 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-22012/256/2002(C-II). The dispute under reference relates to:

“Whether the action of the management of WCL, Pench Area, Distt. Chhindwara in not correcting the date of birth of Shri Uma Shanker Pathak, the workman after 29 years of joining his service is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Union filed statement of claim at Page 4/1 to 4/4. Case of workman is that he is working on post of loading Inspector at Chandametta colliery. While working on said post, he had come to know that his date of birth was erroneously mentioned 12-5-46 in service register. That his correct date of birth is 12-5-52 as per HSc issued by Competent Authority. That he passed HSc in 1988. Workman also relies school leaving certificate dated 15-7-69. His date of birth is recorded 12-5-52. After workman found discrepancies in date of birth, he had submitted representation. Union had also taken up issue regarding his grievances. The representation was submitted on 29-3-96. After representation, no steps were taken for correction of his date of birth in service particulars therefore he was compelled to raise dispute under Section 10 of ID Act. After failure report, dispute has been referred.

3. Ist party workman further submits that for determination of correct date of birth, IINo.76 has been issued. As per I.I.No.76, if there is variation in age recorded in educational certificates issued by universities or Board, record maintained in Form B, CMPF etc. the matter can be referred to Age Determination Committee for ascertaining the correct date of birth. However the management has not referred the matter to Age Determination Committee as per I.I.No.76. That in the matter of Baroda Prasad Deharia after Judgment by Hon'ble High Court, the matter was referred to Medical Board for determination of age. Workman submits that as per I.I.No.76, it is mandatory for management to send dispute about his date of birth to Medical Board for decision. Workman prays that respondents be directed to correct date of birth as 12-5-52 and allow consequential benefits.

4. 2nd party management filed Written Statement at Page 7/1 to 7/8 opposing claim of Ist party workman. 2nd party submits that Umashankar Pathak i.e. workman was appointed as clerk on 1-1-73. At the time of his initial appointment, he declared his date of birth 12-5-76. Accordingly his date of birth was recorded in official record. The dispute is raised after 29 years of joining service. As per provisions of Mines Act and Rule 77, register of employment i.e. Form B register is maintained. Date of birth of Ist party workman is recorded in Form B register including other details name, father's name, address and identification mark. After amendment of Mines Act in 1984, photo of employees were affixed in Form B Register. Entries in said register are made on the basis of information submitted by workman. As per JBCCI-II, I.I.No.76 was issued as per Para B(i), date of birth shown in certificate of matriculation, HSc etc is treated correct. Certificate of Mining Sirdarship or similar statutory certificates had to certify the date of birth is treated authentic. Date of birth of workman was correctly recorded 12-5-46. The service record bear thump impression of Ist party workman. It is reiterated that service excerpts of the employees were circulated in 1987. Workman had not taken any objection about his date of birth recorded as 12-5-46. 2nd party has referred to ratio held in various cases that date of birth cannot be corrected after 5 years period. It is reiterated that date of birth of workman is correctly recorded. Ratio held in various cases by workman are not applicable.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of WCL, Pench Area, Distt. Chhindwara in not correcting the date of birth of Shri Uma Shanker Pathak, the workman after 29 years of joining his service is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

6. Point No.1 Term of reference pertains to not correcting date of birth of workman Uma Shanker Pathak. Workman claims that his correct date of birth is 12-5-52. His date of birth was wrongly recorded as 12-5-46. Workman filed affidavit of his evidence supporting contentions in his statement of claim. He has also stated in his affidavit that in school certificate issued from HSc., his date of birth is shown 12-5-52. After representation, the matter was not referred to Age Determination Committee. His date of birth is wrongly recorded in service book as 12-5-46. In his cross-examination, workman says he is of 60 year age, he has been retired. His first appointment was as General Mazdoor on 12-9-72. At the time of his initial appointment, he has not produced any documents. He did not remember whether management had prepared for B Register in 1972 he admits that without preparing Form B, no one is allowed to work in mine. He further says once his Form B was prepared but he did not recollect the period. He was promoted as clerk and it was not by selection. In 1975, he submitted marksheets of passing 8th standard. In 1967, he passed 8th standard. At that time, his age was 15-16 years. In 1996, he got knowledge that his date of birth 12-5-52 was not recorded rather his

date of birth was recorded as 12-5-46. He claims ignorance when matter is required to be referred to Medical Board/ Age Determination Committee.

7. Management filed affidavit of evidence of Shri M.B.Kumbhare. Management's witness in his affidavit has reiterated that in Form B register, particulars of workman, name, sex, designation, address, date of birth 12-5-46 are recorded. Workman has signed on it. In 1987, service excerpts were circulated to employees. Workman had not taken objection to his date of birth 12-5-46. Management's witness in his cross says workman did not work under him at any time. He was not aware about correspondence made by workman. Form B register was prepared by office at the time of appointment and transfer. Workman was not referred to Age Determination Committee or Medical Board.

8. Documents produced by Ist party workman Exhibit W-1,2,3 shows date of birth of workman 12-5-46. There is no overwriting. Exhibit W-4 is copy of Writ Petition filed by workman. Copy of I.I.No.76 is produced at Exhibit W-5. Clause B(i)(a) provides- certificates of matriculation HSc issued by university or Board are treated to be correct. Ist party workman had not proved the documents of school leaving certificate, marksheet, its zerox copies are produced by him. As such workman has not proved his correct date of birth is 12-5-52 as there is no operation in his date of birth recorded in Form B register and School Leaving Certificate. Management is not required to refer the matter to Age Determination Committee. The documents Exhibit M-1 to 3 shows date of birth of workman is recorded 12-5-46 Exhibit M-4,5 are copy of I.I.No.76. Workman has not proved that his correct date of birth is 12-5-52. On the point of correction of date of birth, Shri A.K.Shashi relies on ratio held in case of G.M, Bharat Coking Coal Ltd., West Bengal versus Shib Kumar Dushad and others reported in 2000(8)SCC-696. Their Lordship held where question regarding correctness of date of birth as entered in service record raised by employee long after his joining the service and the employer decided the question following the procedure prescribed by statute, stator rules or instructions held in absence of any arithmetical or typographical error apparent on the face of the record. High Court should not interfere with such decision of the employer in exercise of its extraordinary jurisdiction under Article 226.

In case between State of Haryana versus Satish Kumar Mittal and another reported in 2011(1)MPLJ-302. Their Lordship dealing with correction in service record held if time limit is not prescribed, then within a reasonable time not to be entertained merely on the basis of plausible material.

In case of State of Tamil Nadu versus T.V.Venugopalan reported in 994(6)SCC-302. Their Lordship held dealing with delay in seeking correction of date of birth, the correction would not be permitted to challenge by Government Servant.

As workman has failed to establish his correct date of birth as 12-5-52, Point No.1 is answered in Affirmative.

9. In the result, award is passed as under:-

- (1) The action of the management in not correcting the date of birth of Shri Uma Shanker Pathak, the workman after 29 years of joining his service is legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 27 फरवरी, 2017

का.आ. 617.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 46/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/30/2009-आई.आर. (सीएम-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 617.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Western Coalfields Limited and their workman, which was received by the Central Government on 23.02.2017.

[No. L-22012/30/2009-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR****No. CGIT/LC/R/46/2010**

The General Secretary,
Pench Kahan Koyala Khadan Karmchari Sangh,
PO Damua, Chhindwara

...Workman/Union

Versus

Chief General Manager,
Western Coalfields Ltd.,
Kanhana Area, PO Dungaria,
Distt. Chhindwara

...Management

AWARDPassed on this 15th day of December 2016

1. As per letter dated 22-9-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/30/2009-IR(C-II). The dispute under reference relates to:

“Whether the action of the management of M/S WCL in not regularizing the services of Shri Vijay Shankar Tripathi, Auto Helper on the post of Crane Operator is legal and justified? To what relief is the concerned workman entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Case of Ist party workman is that he was appointed as Tub Loader in Nandan Mines in 1983. Thereafter he was transferred to Tandsi Project as tub loader on 28-12-87. He was working as Crane Driver in 1989 & 1991. He raised dispute pertaining to his promotion. In conciliation proceeding, he was paid wages of Category V for working as officiating period 22-4-89 to 29-7-89, his services were terminated. Order of his termination was set aside during pendency of dispute. He was reinstated with backwages as per order dated 24-9-04 passed by Hon'ble High Court in LPA 739/02. Thereafter he joined services of WCL. He was issued to drive train along with Anwar Khan on 16-2-06. After 1 year, 7 months and 13 days, he was reverted on 30-9-97 without assigning any reasons. Thereby management committed breach of clause 3.6 of certified standing orders.

3. Ist party workman further submits he submitted representation claiming status of crane driver as he had completed required period on post of crane driver. His representation was not responded by management. He had approached Conciliation Officer claiming regularization of his service as crane driver. After Conciliation Officer submitted failure report, Central Government refused to make reference. He filed Writ Petition in High Court and the dispute has been referred after his Writ Petition was allowed.

4. 2nd party filed Written Statement opposing claim of workman. 2nd party submits that Ist party workman was initially appointed as tub loader in Nandan Mine No.1. He was not interested in job of tub loader as work of tub loader is hazardous. Workman requested management to transfer him where light work is available therefore workman is transferred to Tandsi Project. He was offered job of General Mazdoor. Workman accepted said job without any objection. Workman however claimed wages of tub loader which was not acceptable to the management. Job of tub loader was not available in Tandsi Project. Said mine was fully mechanized, no manual labour was done. 2nd party further submits there is cadre scheme for crane operators. Job of crane operator is skilled and experienced persons are given said job. Cadre scheme applicable to crane operator. There is no post of crane helper. Workman claimed post of crane driver and wages of said post. That no such designation of crane driver are available in cadre scheme. Workman was never asked to work as crane operator because he was not qualified nor he had such experience.

5. 2nd party further reiterates that workman is in habit of raising dispute against management with a view to cause harassment. He is not interested in discharging his duties. To escape from disciplinary Proceedings on the misdeeds committed by him workman indulged in unnecessary litigation. Management had denied that workman worked as crane driver during the period 89 to 1991. It is denied that workman was paid officiating wages for the period 24-4-89 to 29-7-89. Workman is silent about outcome of Conciliation Case No. CHA-1(32)/91. That workman was not terminated

during pendency of any dispute. Workman hidden facts to mislead this Tribunal. Management submits that workman had tendered regularization from service, same was accepted. Workman was relieved from service. Relieving order was challenged on the ground that the resignation was conditional and same was revoked before its acceptance. Vide order dated -11-02, Writ Petition no. 5113/99 was dismissed. Workman filed LP No. 739/02. The Division bench sympathetically considering his case and vide order dated 24-9-04 directing management to reinstate workman with 30% backwages. Order has been fully implemented. Workman was reinstated in service on same post. He was relieved. Workman was not directed to drive crane by the authorities. Anwar Khan was not working alongwith workman. Workman is unnecessarily trying to compare his case with Anwar Khan who was not appointed as crane operator. The dispute has been referred after order dated 21-7-2010 in Writ Petition No. 123/09. 2nd party submits that workman doesnot possess requisite qualifications and experience for appointment as crane operator. Claim of workman deserves to be rejected.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of M/s. WCL in not regularizing the services of Shri Vijay Shankar Tripathi, Auto Helper on the post of Crane Operator is legal and justified?	Parties failed to adduce evidence. Dispute couldnot be decided on merit.
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Term of reference pertains to denial of regularisation of services of workman on post of crane operator. Though workman filed statement of claim, management filed Written Statement. Workman failed to participate in reference. He failed to adduce evidence. Evidence of workman is closed on 31-3-2016. Counsel for management submitted not to adduce evidence. Evidence of management is closed on 5-7-2016. As both parties failed to adduce evidence, dispute under reference could not be decided on merit. Accordingly I record my finding in Point No.1.

8. In the result, award is passed as under:-

- (1) The dispute under reference could not be decided on merit.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 फरवरी, 2017

का.आ. 618.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 08/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/392/2007-आई.आर. (सीएम-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 618.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2008) of the Central Government Industrial Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. ECL, and their workman, received by the Central Government on 27.02.2017.

[No. L-22012/392/2007-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE No. 08 OF 2008

PARTIES : The management of Madhujore Colliery of M/s. ECL

Vs.

Shri Baleswar Roy

REPRESENTATIVES:

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Rakesh Kumar, Union President

INDUSTRY: COAL STATE : WEST BENGAL

Dated: 03.02.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/392/2007 - IR(CM-II) dated 05.03.2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of M/s. ECL in dismissing Shri Baleswar Roy w.e.f. 20.04.2006 is legal and justified? If not, to what relief is the workmen entitled?”

1. Having received the Order No. L-22012/392/2007 - IR(CM-II) dated 05.03.2008 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 08 of 2008 was registered on 14.03.2008/26.03.2008 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

2. Case called out. Sri P. K. Das, Learned Advocate appears on behalf of the management. Sri Rakesh Kumar, Union representative appears on behalf of the workmen.

3. On perusal of the record it is found that the Union representative, Sri Rakesh Kumar, is not able to trace the workman. He has also written it on the order sheet. Since the workman neither appearing nor sending any instruction to union as well as written statement of the workman also not been filed yet. It seems that the workman is not at all interested to proceed the case further. I have no option left but to close the case.

4. As such the case is closed and accordingly a ‘No Dispute Award’ is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 फरवरी, 2017

का.आ. 619.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 90/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/209/2007-आई.आर. (सीएम-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O.619 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/2007) of the Central Government Industrial Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. ECL, and their workmen, received by Central Government on 23.02.2017.

[No. L-22012/209/2007-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL****PRESENT :** Sri Pramod Kumar Mishra, Presiding Officer**REFERENCE NO. 90 OF 2007****PARTIES :** The management of Satgram Project of M/s. ECL**Vs.**

Shri Dayamoy Ganguly

REPRESENTATIVES :

For the management : Sri P. K. Goswami, Learned Advocate
For the union (Workman) : Sri Sayantan Mukherjee, Learned Advocate

INDUSTRY: COAL **STATE: WEST BENGAL**

Dated: 01.02.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **No. L-22012/209/2007 (IR(CM-II))** dated 24.10.2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of M/s. ECL to extend the Training Period from 18 (eighteen) months to 24 (twenty four) months and not regularizing Shri Dayamoy Ganguly w.e.f. 14.08.2002 is legal and justified? If not, to what relief is the workmen entitled?”

1. Having received the Order **NO. L-22012/209/2007 (IR(CM-II))** dated 24.10.2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. **90 of 2007** was registered on 20.11.2007/03.12.2007 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.
2. Case called out. Sri P. K. Goswami, Learned Advocate appears on behalf of the management. None appears on behalf of the workmen.
3. On perusal of the record it is found that the Union/Workman was granted 35 opportunities so far for filing their Written Statement but they did not turn up even for a single day except on 31.07.2012 and did not file their Written Statement so far. Registered notices were issued to the Union on 11.12.2007, 21.12.2011, 31.05.2012 and 14.10.2014 but all in vain. It seems to me that the workman is not at all interested to proceed with the case further.
4. As such the case is closed and accordingly a ‘**No Dispute Award**’ is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2017

का.आ. 620.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन फार्मर्स फर्टिलाइजर कोऑपरेटिव लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1202/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/289/2001-आई.आर. (सीएम-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st March, 2017

S.O. 620.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1202/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of M/s. Indian Farmers Fertilizers Co-operative Limited, and their workman, received by Central Government on 28.02.2017.

[No. L-42012/289/2001-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer
CGIT-cum-Labour Court, Ahmedabad,
Dated 20th February, 2017

Reference: (CGITA) No- 1202/2004

The Sr. General Manager,
Indian Farmers Fertiliser Co-operative Ltd.,
Kandla (Gujarat) – 370210

...First Party

V/s

Shri D.V. Jadeja,
D-137, IFFCO Colony,
Udaynagar, Gandhinagar,
Kutch (Gujarat)

...Second Party

For the First Party : Shri P.S. Gogia
For the Second Party : Shri Prabhatsinh Parmar

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/289/2001-IR(CM-II) dated 05.08.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of IFFCO, Kandla in removing Shri D.V. Jadeja, Chief Operator from services w.e.f. 04.05.2000 is legal and justified? If not, to what relief he is entitled to?”

1. The reference dates back to 05.08.2002 when the reference was received from the Ministry of Labour, Government of India, New Delhi. Notices were issued to all the parties.
2. The second party workman Dashrathsinh Verubha Jadeja submitted the statement of claim Ex. 8 on 19.07.2010 wherein in short he has alleged that the first party, Indian Farmers Fertiliser Co-operative Ltd., Kandla, hereinafter referred to as “The Society”, is a multi-state co-operative society registered under the Multi Unit Co-operative Society Act, 1942 which was engaged in the manufacture of chemical fertilisers. It was established in the year 1975 with 1500 workmen including the staff members. The Society is also governed by various labour laws like Factory Act, 1948, Payment of Wages Act, 1936 and Industrial Employment (Standing Orders) Act, 1948. The society has also got its standing orders certified under the aforesaid Industrial Employment (Standing Orders) Act, 1948; therefore, the relations between the society and its workmen are regulated by the said act.
3. The workman Dashrathsinh Verubha Jadeja joined the society as Boiler Attendant on 16.12.1981 in the scale of 510-25-630-30-810 pursuant to the society order no. KP/PER/12/81 dated 12.11.1981. He was allotted permanent personal number 62124. He was promoted in Grade 1 vide order no. KP/PER/40/86 dated 01.05.1986 in the scale of 930-40-1130-45-1355 fixing his basic pay as Rs. 1130/- per month vide the aforesaid order. Therefore, he was promoted to Grade H2. He was also called for interview for promotion to the post of Grade G1 but he was not promoted. He was issued a certificate bearing number KP/PERS/Estt./62124/97 dated 04.01.1997 informing that he has successfully completed uninterrupted service of 16 years in the society as on 15.12.1996 with a cash award of Rs. 2000/- vide head quarter circular number 1081 dated 28.03.1992. He had been having a blotless meritorious, clean, sincere and honest service throughout the service period except the period stated in the charge-sheet dated 05.08.1999 for which he had been having convincing satisfactory and sufficient reasons. It has been further alleged that the society issued him a charge-sheet bearing No. KP/IR/62124/99 dated 05.08.1999, appointing Mr. L.K. Bhavhani as inquiry officer, well-versed in labour laws being law graduate and having held high offices in the management cadre in different company, charging him (workman) that he had remained absent from duty unauthorisedly for 213 days for the period from April 1998 to July 1999.
4. He has further alleged that the aforesaid inquiry officer L.K. Bhavhani made a formality of inquiry in haste and behaving like the representative of the society with a pre-determined mind. He was not offered adequate, sufficient and reasonable opportunities by the inquiry officer to put his case, thus the inquiry proceedings were in total violation of the principles of natural justice making the discharged order passed vide order KP/IR/62124/2000 dated 04.05.2000 against him (workman) was thus null and void, improper, illegal and also the act of victimisation as the charge-sheet as well as the second show cause notice No. KP/IR/62114/2000 dated 18.01.2000 and also the order of termination KP/IR/621/2000 dated 04.05.2000 were sent by the General Manager S.P. Yadav who does not fall in the definition of the General Manager as defined him the standing order 2.1.5. He also does not fall in the definition of the word “Management” as given in the certified standing order 2.1.8. There has been division of power between the General Manager and Management of employer and the powers of dismissal, discharge and suspension have been retained by the employee himself. The society has also not complied with the obligation cast upon it by the certified standing order 6.2. The words “IFFCO” and “Managing Director” have been defined in the standing order 2.1.6 and 2.1.9 respectively. The order of termination is also void, illegal and unjust because the

standing order 31.3(c) requires that the order of dismissal, discharge and suspension ought to have been passed by the employer himself. Thus the order is also violative of standing order 31.3(c) being passed by the Joint General Manager. The appeal was also rejected by the aforesaid S.P. Yadav on 04.05.2000 despite the fact that the General Manager S.K. Mishra was not on leave or absent.

5. He has further alleged that he had been punctual, regular and faithful in the discharge of duties in the society from the date of joining till 15.12.1996 as stipulated in society letter dated 04.01.1997. His wife had been suffering with breast cancer leading to liver cancer being detected sometimes in 1993 which requires constant medical treatment in Ahmedabad as the facility of treatment of cancer was not being available at the place of employment. He used to go for the said purpose to Ahmedabad frequently by taking leave every time. The said fact was also within the knowledge of society. Unfortunately his wife died of Carcinoma in February, 1994. He has further alleged that after the said demise of his wife, he had to take care of his four minor children, three daughters and one son. His parents were too old being more than 70 years. They also required medical care and his father died in the year 1998, therefore, under the aforesaid circumstances, he had been under mental distressed, pain, hardship and difficulties. He was required to remain absent for certain days for the period from April 1998 to July 1999 for sound, just and convincing reasons beyond his control. It is unfortunate that the society instead of showing sympathy and kindness, took a drastic step of termination of his service which was very much harass, unjust, excessive, improper and also against humanity. He has further alleged that in the past, number of employees like Surenderbhai Sharma and C.R. Vaniar absented from duty unauthorisedly from their services for a long period of 400 and more days without any convincing and valid reason. But no such action was taken against them and they are still in the employment of the society, thus the society cannot adopt two yard-sticks for awarding punishment to his employees. Thus the action taken against him is the violative of the principle of natural justice and Article 14 to 24 of the Constitution of India. He has further alleged that during the period year 1986 to 1989, he had been the General Secretary of the IFFCO Employees Union and had to meet one S.K. Mishra, the department head of Mechanical Maintenance Department of the society who was later promoted to the post of Joint General Manager and later General Manager and who also did not like him as a General Secretary of the union, therefore, aforesaid S.K. Mishra and S.P. Yadav were prejudiced with him and victimised him by way of terminating his service and also by way of rejecting his appeal. He further alleged that he is still unemployed and unable to secure any alternative employment, therefore, he has prayed for reinstatement with back wages and such other relief, as the tribunal may deem fit.
6. The first party vide written statement Ex. 10 admitted the termination of the second party workman on the ground of long unauthorised absence and also the rejection of the appeal. The first party has submitted in the written statement that the second party does not have unblemished service. The truth is that he had remain absent unauthorisedly for 68 days from 01.01.1995 to 31.10.1995 for which a charge-sheet was issued on 27.12.1995 with a advice to improve and remain regular in attending his duties. He had been further absent for 71.5 days for the period from 01.01.1997 to 30.09.1997 for which he was issued charge-sheet dated 12.11.1997 giving him one more chance to improve and to remain regular in attending his duty. The workman was further issued charge-sheet on 14.05.1998 for a unauthorised absence from duty for 40 days during the period from 01.10.1997 to 30.03.1998 with a stoppage of one increment without cumulative effect vide letter dated 20.02.1999. Again he was issued charge-sheet on 05.08.1999 for being absent from duty for 213 days during the period from 01.04.1998 to 31.07.1999, said charge was proved in the inquiry and consequently termination order dated 04.05.2000 was passed and issued to him. It is wrong to say that the termination order vide letter No. KP/IR/62114/2000 dated 04.05.2000 was illegal and passed violating the principle of natural justice and denying the opportunity to defend. The second party workman was issued charge-sheet in to the aforesaid matter vide charge-sheet No. KP/IR/62114/99 dated 05.08.1999. He was given ample opportunity to defend before issuing the termination order. He failed to submit explanation or reply in the inquiry. He did not attend the inquiry, therefore, the inquiry report with a proven charge were also served on him. Thus the order of the termination by the appointing authority and the order passed in the appeal were in accordance with the principle of natural justice. The allegation of violation of natural justice is baseless and without any reason. The allegations in the statement of claim are also without any basis and false. It has been further alleged that the workman after termination of service is gainfully employed and earning more than what he was receiving from the first party.
7. The second party workman D.V. Jadeja did not challenge the illegality of the inquiry. He simply challenged the quantity of the punishment which is alleged to be disproportionate to the misconduct alleged/labelled in the charge-sheet.
8. Therefore, on the basis of the pleadings and the charge-sheet, the following issues are to be addressed by way of passing award.

Issue No. i : Whether the punishment of removal of service of the second party workman D.V. Jadeja from services w.e.f. 04.05.2000 was disproportionate to the misconduct alleged in the charge-sheet?

Issue No. ii : Whether the action of the management of IFFCO, Kandla in removing Shri D.V. Jadeja, Chief Operator from services w.e.f. 04.05.2000 is legal and justified?

9. Both the issues No. i and ii are interrelated, therefore, are taken together for passing award. The burden to prove these issues were lying on the second party workman. Therefore, he submitted his affidavit Ex. 12 as an examination-in-chief which is absolute reproduction of the statement of claim Ex. 8 on oath. He in his cross-examination stated that he was charge-sheeted for absence of 68 days, 71 days and 40 days without authorisation in the year 1995, 1997 and 1998. He further admitted in his cross-examination that he was again re-charge-sheeted on 05.08.1999 for the absence of 213 days without authorisation which he did not replied by way of giving his explanation. He has also admitted that in all the inquiries, he was issued notice to appear. He has also admitted that the inquiry officer wrote him a letter to reply as to why he did not appear in the inquiry. To this question he said that he did not remember as to whether he gave the reply or not. He further admitted that he was given the copy of the inquiry reports on 18.01.2000. He was also issued a show-cause notice regarding the punishment. He has also admitted that he did not disclose the reasons of absence from the duty by way of any reply or explanation but he said that he absented from duty because of illness of his parents and his wife.
10. In rebuttal, the first party examined R.A. Ambwani, Deputy General Manager, Personnel and Administration by way of filing the affidavit Ex. 44 as an examination-in-chief wherein he also reiterated the averments made in the written statement Ex. 10. In his cross-examination he has not said anything contrary to the averments made in the written statement.
11. Both the parties have submitted the relevant documents Ex. 17 to 41 and Ex. 64 to 69 which all are admitted and not challenged by either of the parties.
12. Both the parties have filed the written arguments Ex. 56, 57 and 60 respectively.
13. It is noteworthy that the second party has challenged the legality of the inquiry in a cursory manner but has not disclosed the grounds and reasons as to what illegality or regularity was committed by the inquiry officer in the departmental proceedings. Therefore, I do not think necessary to go into the illegality or irregularity being committed in the departmental proceedings because the second party workman in his affidavit/examination-in-chief as well as in the cross-examination has not denied that he was not given the opportunity of submitting reply, producing his witnesses in rebuttal and appearance. Therefore, it can easily said that the inquiry officer followed the principles of natural justice while conducting the departmental proceedings. It is also noteworthy that he has also admitted that he was given the copy of the inquiry report as well as was served with the show-cause notice while awarding the punishment but he did not reply the show-cause notice.
14. Thus in the light of the discussions made in the Para 13, the limited questions remain to be answered as to whether the punishment awarded was adequate or was excessive and disproportionate to the misconduct.
15. The second party workman in his argument Ex. 61 has submitted in his Para 5 that the workman did not challenge the inquiry but wanted to see that the justice is done. From the inquiry report that the inquiry officer was an outsider representing the professional firm THE ODYSSEY to which he has no objection but the inquiry officer would have been trained and conducted the inquiry which have been not clear from the reply of the first party. The inquiry officer gave his findings on the basis of the documentary evidence without any oral evidence and held him guilty. The inquiry report was based on presumptions, therefore, perverse in the absence of the oral evidence. He has also challenged the inquiry report on the ground that there was no formal charge-sheet, only show cause notice cum charge-sheet was served on him to submit the explanation but he has also added that wanted early dispensations of justice so not criticise the inquiry however finding and punishment his perverse being disproportionate to the misconduct.
16. The first party management answered the arguments of the second party by way of submitting the written arguments Ex. 57 and 60 stating that it was a case of long absence from the year 1995 to 1998 without authorisation. His conduct was also obstinate that he did not dare to appear in any of the inquiry proceedings from 1995 to 1997 indicating that he was not scared of any inquiry or action. In my view, such obstinacy permits the management to award the punishment of removal.
17. The learned counsel of second party submitted the written argument Ex. 61 argued that the inquiry was conducted in a hasty manner by conducting the proceedings in the day to day manner and therefore, violative of the principles of natural justice. Therefore, the inquiry proceedings were illegal. This argument has no force because it is an admitted fact that the second party workman was served with the charge-sheet giving him the opportunity to submit his explanation which he did not avail. Thereafter, he was also giving opportunity to appear and to participate with an opportunity to give evidence in defence which he also did not avail. Thus the challenging the legality of the inquiry in a casual manner without disclosing the reasons with the support of an affidavit will not give him a right to challenge the inquiry. Thus as the inquiry proceedings have not been challenged by giving solid reasons, therefore, I find the inquiry proceedings as legal and just without violative of principles of natural justice.
18. The second and the last argument of the second party workman is that the punishment awarded was disproportionate to the misconduct or the charge labelled in the charge-sheet. This is an admitted fact that the second party workman absented from duty for 68 days during the period from 01.01.1995 to 31.10.1995 of which

he was served with the charge-sheet dated 27.12.1995 giving him a chance to improve and advised to be regular in attending his duty, unauthorisedly absented from 75 days from 01.01.1997 to 30.09.1997 of which he was also served with the charge-sheet dated 12.11.1997 giving him one more chance to improve and advised to be regular in perform his duties, unauthorisedly absented for 40 days during the period from 01.10.1997 to 30.03.1998 of which he was also served with the charge-sheet dated 14.05.1998 stopping his one increment without cumulative effect vide letter dated 20.02.1999 and unauthorisedly absented for 213 days during the period from 01.04.1998 to 31.07.1999 of which he was served with the present charge-sheet in question and the order of termination was passed. Thus the second party workman absented unauthorisedly for 392.5 days in the past and present too during the period from 01.01.1995 to 31.07.1999. This conduct indicates that the second party workman was habitual in absenting from the duty without taking prior sanction. It is a noteworthy fact that second party workman was a union leader and might be possible that he would have been expressing his muscle power by absenting unauthorisedly showing that management cannot harm him. Such conduct cannot be said to be tolerable in the best management of the industry because it is quite natural that the other works force may follow him.

19. The argument that the punishment is excessive has been supported by the learned counsel by way of his judgement *Sardar Singh Dev Singh V/s District Superintendent of Police 1995 Gujarat LH 940* wherein the Gujarat High Court held that absence of 150 days unauthorisedly by a constable will not make the case of dismissal and the penalty was treated as harass.
20. The learned counsel of the second party has also referred that *Mavji C. Lakum V/s Central Bank of India (2009) 1 SC C (L&S) 254* wherein the Industrial Tribunal interfered in the punishment awarded and reduced the punishment of discharge from service to with-holding of one year increment. The Hon'ble Supreme Court upheld the judgement of the tribunal. He further referred *Krishankant B. Parmar V/s Union of India(2012) 1 SC C (L&S) 609* wherein the apex court held that the conduct of appellant who unauthorisedly absented from duty during the consecutive periods – 36 days, 32 days and 34 days was unlike of the government servant and if the absence was not wilful, relief can be granted.
21. The learned counsel of the second party workman further referred that *General Manager V/s DasrathbhaiSonjibhaiBhim, Civil Application Number 8604 of 2005 with Special Civil Application Number 18941 of 2005* wherein the Gujarat High Court held that there appears to be a limited scope of interference in Article 226 and 227 of the Constitution of India, this court is unable to dislodge the findings otherwise the workman is also not appearing to be so innocent, as it seems from the record that, he may be given a cakewalk. On the contrary, the Authority has stated that he must be visited with some penalty, of course not that of dismissal, but it is reflected from records that he has suppressed the fact of criminal case in which serious charge of theft was entangled and further there are specific finding of the learned Presiding Officer in the course of inquiry that the charge levelled against the workman is proved. Of course, it is a different matter that power under Section 11-A of the Act, to be exercised by the Tribunal, but the factum of charge have proved during the course of inquiry, at least in the opinion of this court, he must be deprived of the full benefits and therefore, order passed by the learned Presiding Officer to that extent is just whereby 50% back wages having been awarded. In the opinion of this court, the order passed by the learned Presiding Officer does not call for any interference and this material fact to be taken note of that there is specific purshis given by the respondent workman whereby the validity of the inquiry has not been questioned and therefore, the order passed by the Tribunal is in consonance with the duty discharge to its statutory discretion and same is not required to be interfered with. Therefore, looking to overall set of circumstance, this Court is of the opinion that the order passed by the learned Presiding Officer is not required to be interfered with. The case law relied upon by the learned advocate for the respondent workman is in different set of circumstance qua the case on hand and therefore, same are not of avail. It is settled law that if slight change in facts, it would make world of difference in applying precedent. Therefore, in the background of fact of those particular case, are quite distinct from the fact of the case on hand and therefore, this court is of the opinion that the petition presented by the workman being devoid of merits and same deserves to be dismissed.
22. The learned counsel for the first party referred number of decisions however I would like to refer *UPSRTC V/s Vinod Kumar 2008 LLR 121 SC* wherein the apex court held that since respondents has not challenged the correctness, legality and validity of the inquiry conducted, therefore, the labour court cannot go in to the findings recorded by the inquiry officer. It was also observed that there is no place for generosity or misplaced sympathy on the part of judicial forms to interfere with the quantum of punishment. Similar ratio was expressed in *Employers Management, West Bukaro Colliery of TISCO Ltd. V/s workman Rampervesh Singh 2008 LLR 432 SC*.
23. In *Chairman and MD B.S.T. and others V/s GopaRaju Shri PrabhakraHaribabu 2008 LLR 715 SC* wherein the apex court held that respondents was a habitual absentee. He had not submitted his explanation of illness of his mother in the departmental inquiry despite granting opportunity to him and failure to comply the order of reporting on duty. He also failed to explain his prior conduct; such conduct was held sufficient to pass order of dismissal.
24. In *General Secretary, South Indian Cashew Factories Workers Union V/s The Managing Director, Kerala State Cashew Development Corporation Ltd., 2006 LLR 657 SC* wherein the apex court held that Merely because the inquiry officer is an employee of the management, it cannot lead to the assumption that he is bound to decide the

case in favour of the management since it is well-known that inquiries are generally conducted by officers of the employer companies and in the absence of any special bias attributable to a particular officer, it has never been held that the inquiry is bad just because it is conducted by an officer of the employer. When the plea that inquiry officer was biased was not raised during the inquiry or pleadings before the Labour Court or in earlier proceedings before the High Court hence no cognizance is taken of the allegations. If the inquiry is fair and proper, in the absence of any allegations of victimisation or unfair labour practice, the labour court has no power to interfere with the punishment imposed. Although Section 11 A of the Industrial Disputes Act gives ample power to the Labour Court to re-appraise the evidence adduced in the inquiry and also sit in appeal over the decision of the employer in imposing punishment. Section 11 A of the Industrial Disputes Act empowers the Labour Court/ Tribunal to give appropriate relief in case of dismissal or discharge of a workman as clearly mentioned in the section itself.

25. In the State Bank of Mysore V/s M.C. Krishnappa 2011 (ii) CLR 859 apex court held that it is a well settled principle that punishment is primarily a function of the management and the courts really interfere with the quantum of punishment. Similarly in Delhi Transport Corporation V/s Subhas Chand 2011 LLR 341, the Delhi High Court held that it is a well settled law that a court will not normally sit in the appeal over the findings arrived at by the inquiry officer. Since the court is not required to examine or re-examine the evidence adduced before the inquiry officer and it is only in exceptionable cases when the findings of the inquiry officer are found perverse or opposed to the principle of natural justice. Only then interference is warranted by the courts since the jurisdiction of the court is ousted in such cases.
26. In State Bank of Bikaner V/s Nemichand Nalwaya 2011 LLR 634 SC wherein the apex court has held that in the matter of disciplinary proceedings, the courts cannot sit as an appellate court to re-assess the evidence produced in the inquiry. It cannot also interfere with the ground that any view is possible on the basis of the material on record. It was also held that as and when the punishment has been imposed upon an employee after holding of an inquiry, the courts have restricted powers and can interfere only when the finding was found perverse or based on no evidence and also when the principles of natural justice are not followed.
27. In North Eastern Karnataka R.T. Corporation V/s Ashappa 2006 LLR 744 and 2006 (J) SC C 137, the supreme court held that long absence continuous and unauthorised of an employee from duty running public utility services to the passengers by plying buses will amount to major misconduct as such the labour court wrongly directed the reinstatement. Reinstatement of a driver absenting for a long period even without back wages is unjustified.
28. In Delhi Transport Corporation V/s Sardar Singh 2004 LLR 953 SC, the apex court held that non approval of dismissal of a workman by the Industrial Tribunal was not justified when the workman has frequently absented himself. Merely because the absence of a workman was treated as leave without pay for the purpose of maintaining correct record by the management, it does not absolve a workman from the misconduct of his absence. When an employee habitually absents himself from duty even without sanctioned leave for very long, it prima facie shows negligence and lack of interest in work and in departmental proceedings to treat it as misconduct was not unjustified view.
29. I considered the evidence and arguments of both the parties. This is a case of repeated unauthorised long absence from duty by an employee who is also union leader. He has tried to explain his absence from duty on the ground of illness of parents and wife without support of any evidence. His conduct of long absence appears to be obstinate nature because he was thrice charge-sheeted and admonished but he did not try to improve his conduct, therefore, there is no case of interference in the punishment awarded by the management. Thus the reference is disposed of with the observation as under: "the action of the management of IFFCO, Kandla in removing Shri D.V. Jadeja, Chief Operator from services w.e.f. 04.05.2000 is legal and justified."
30. The award is passed accordingly.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 621.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, हिन्दुस्तान शिपयार्ड लिमिटेड व उनके कर्मचारी, के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 25/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.02.2017 को प्राप्त हुआ था।

[सं. एल-42011/130/2012-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 621.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 25/2013) of the Central Government Industrial Tribunal-cum-

Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Hindustan Shipyard Ltd. And their workman, which was received by Central Government on 16.02.2017.

[No. L-42011/130/2012-IR (DU)]

RAJENDEAR JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 19th day of October, 2016

INDUSTRIAL DISPUTE No. 25/2013

Between :

1. The General Secretary
HS Labour & Staff Union, (Affiliated to CITU)
C/o Hindusthan Shipyard Ltd.,
Gandhigram,
Visakhapatnam-530005.
2. The General Secretary,
HS Employees Association, (Affiliated to TNTUC),
C/o Hindusthan Shipyard Ltd.,
Gandhigram,
Visakhapatnam.

...Petitioner Unions

AND

The General Manager,
Hindusthan Shipyard Ltd.,
Gandhigram,
Visakhapatnam-530005.

...Respondent

Appearances:

For the Petitioner : General Secretaries of both petitioner unions

For the Respondent : Ms. K. Udaya Sri & Sri P. Sudheer Rao, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-42011/130/2012-IR(DU) dated 21.01.2013 referred the following dispute between the management of M/s Hindusthan Shipyard Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the demand of the H.S. Labour & Staff Union (CITU), H.S. Employees Association (TNTUC) and H.S. Sramilk Sangth (Affiliated to BMS) for payment of skilled wages and also equal pay for equal work on par with the permanent employees, to contractual workmen appointed on Fixed Term/ L Series basis directly by the management of Hindusthan Shipyard Ltd. Visakhapatnam is legal and justified? If not, what relief the concerned workmen and the trade unions are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 25/2013 and notices were issued to the parties concerned.

2. The Petitioner Unions have filed their claim statement and Respondent did not file their counter, as such Respondent is set-exparte.

3. Now, the case is posted for evidence of the Petitioner unions. In spite of availing several opportunities, the Petitioner unions and Respondent remained absent and there is no representation on behalf of the Petitioner unions as well as the Respondent, which clearly indicates that perhaps the dispute of the Petitioner unions has already been settled. In the circumstances stated above, it is felt that the Petitioner unions are not interested in pursuing the dispute. Thus, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri J Vijaya Sarathi, Secretary to the Court, corrected by me on this the 19th day of September, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner

Witnesses examined for the
Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 मार्च, 2017

का.आ. 622.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डायरेक्टर, सेंट्रल इंस्टीट्यूट ऑफ क्लासिकल तमिल चेन्नई एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 96/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.01.2017 को प्राप्त हुआ था।

[सं. एल-42011/55/2015-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 622.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 96/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, Central Institute of Classical Tamil Chennai and their workman, which was received by Central Government on 09.01.2017.

[No. L-42011/55/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Thursday, the 29th December, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 96/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Central Institute of Classical Tamil and their workman)

BETWEEN :

Dr. A. Arockia Doss : 1st Party/Petitioner

AND

The Director : 2nd Party/Respondent
Central Institute of Classical Tamil
No. 40, IRT Campus, 100 Ft. Road
Taramani
Chennai-600113

Appearance:

For the 1st Party/Petitioner : Sri T. Sundaravadanam, Advocate
For the 2nd Party/Management : Sri R. Parthiban, Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/55/2015-IR (DU) dated 18.06.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of CICT, Chennai regarding refusal of legal rights of the Petitioner Union is justifiable or not? If not, to what relief the workmen are entitled to?”

2. On receipt of the Industrial Dispute this Tribunal numbered it as ID 96/2015 and issued notices to both sides. Both sides entered appearance through their counsel and filed Claim and Counter Statement respectively.
3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner is the President of Semmoli Tamil Madhiya Nirvana Uzhiyar Sangam having 16 members. All of them had joined the Central Institute of Indian Languages, Mysore under Centre of Excellence for Classical Tamil in various disciplines as Resources Persons, Junior Resource Persons, Programmer, Data Input Operator, etc. in March 2006. The Respondent institution started functioning in Chennai in May 2008. All the concerned workmen who were working in Mysore were transferred to Chennai alongwith others. An association was formed in 2012 and subsequently it was formulated into present Trade Union Association, the petitioner. Though there were 86 earlier, the number of employees were reduced unjustly and now there are only 54 employees. There is no permanent Director, Registrar or Finance Officer for the Respondent institution. On 03.06.2014 the petitioner raised demands with the Respondent to make those workers who were working in the Respondent for more than 480 days permanent, for basic pay, for dearness allowance, for house rent allowance and other attendant benefits alongwith other demands. The demands were placed before the Assistant Commissioner of Labour (Central). The Respondent did not concede to the demands of the petitioner before the Assistant Labour Commissioner. Consequent to the failure of conciliation a failure report was given and the matter has been referred to this Tribunal for adjudication. An Award may be passed holding that the demands of the petitioner are lawful and justified and direct the Respondent to pay the backwages and other benefits to the concerned workmen.

4. The Respondent has filed Counter Statement contending as below:

The Central Institute of Classical Tamil which was earlier functioning from Mysore was shifted to Chennai in 2008. The Respondent had engaged persons on contract basis to pursue research on Classical Tamil Language and Literature. The Central Government had not approved any post for the Institute. So all the persons were engaged on

contract basis depending upon requirement. Subsequently, the Ministry of Human Resources Development sanctioned certain posts and the Respondent took initiative to fill-up the posts. The petitioner and others filed Writ Petition before the High Court and obtained an order of Interim Injunction not to proceed with the selection process. The Writ Petitions are pending before the High Court. The purpose of the Respondent institute is to do research relating to the classical phase of Tamil. The Institute which is a research institute is mainly funded by the Ministry of Human Resources Development of Government of India. It is not carrying any trade or business. Its activities do not result in production or distribution of goods and services calculated to satisfy human wants and wishes. It is not engaged in any commercial or industrial activity. The activity carried out by the Respondent does not fall under the definition of Industry as given in Section-2(j) of the ID Act. The dispute is raised by the petitioner alongwith a few persons. It has no representative capacity to adjudicate the dispute. For these reasons itself the dispute is liable to be rejected. Some persons were engaged by the Institute on contract basis depending upon their qualification and merit as Senior Resource Persons. A daily honorarium was fixed for them. Junior Resource Persons were also engaged in this manner. Some persons have left after the contract period was over. On the basis of the need fresh contracts were given to certain others. The concerned persons are not entitled to regularization in the service of the Respondent in the absence of any sanctioned post or vacancy and also because they are not having any qualification and they were not appointed through any regular means. The Writ Petitions pending before the High Court are for the same relief as claimed in this dispute.

The petition is liable to be rejected.

5. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to Ext.W288 and Ext.M1 and Ext.M2.

6. **The point for consideration is:**

‘Whether the concerned employees are entitled to absorption and other reliefs as claimed by them?’

The Point

7. The petitioner is the President of the Sangam having 16 persons as its members, all of them working in the Respondent institution. They are said to have joined the Institution in the year 2006. They have joined as Senior Resource Persons, Junior Resource Persons, Data Entry Operators, etc. they were paid wages on daily basis alongwith honorarium depending on their status. The Institute which had earlier been functioning from Mysore had been shifted to Chennai in 2008. As seen from the Claim Statement the petitioner Union had decided to agitate the following issues, on 03.06.2014.

- (i) The workers who are working in the Respondent for more than 480 days shall be confirmed as permanent workers.
- (ii) Basic Pay, Dearness Allowance, House Rent Allowance and all other attendant benefits shall be provided to the workers of the Respondent Institute as provided to the Government Servants.
- (iii) The bias shown in the promotion, salary, increment and other benefits to the workers shall be removed and all shall be provided with all the benefits on par with other employees working in the Institute.
- (iv) The workers of the Institute shall be provided Casual Leave, Medical Leave, Earned Leave, Maternity Leave and all other prescribed leave as per law.
- (v) The workers of the Institute shall be provided all the medical benefits as per law.
- (vi) Low priced affordable canteen shall be opened in the Institute campus for the workers.

According to the petitioner, during the period from March 2006 to August 2015 several employees have completed 480 days of continuous employment but this was neglected by the Institution and pay was arbitrarily enhanced to the junior most employees. The dispute is said to have been raised in this circumstance.

8. The President of the Sangam has been examined as WW1 and Ext.W1 to Ext.W88 are marked through this witness. All these documents are nothing but the mark sheets and certificate of qualification of the concerned employees, 16 in number, apart from a few other documents including renewal of the contracts in respect of the different employees.

9. The practice of the Respondent seems to be to appoint persons on contract basis. It does not have even a Director or other top persons of its own in the establishment. Those persons are taken on deputation. Those who are supposed to do the research in Classical Tamil which is the object of the Respondent institute are being taken in on contract basis. Ext.M1 and Ext.M2 are samples of the contract. Ext.M1 is the offer given to WW1 to engage him as Senior Resource Person in the institute on contract basis for a period of 6 months. The terms and conditions of the offer states that the position will be purely on temporary basis and co-terminus with the projects of the department. It further states that the duration of the contract will be initially for a period of 6 months from 04.04.2013 or the period approved

by the Governing Board. Ext.M2 is the offer of contract for the year 2014-2015 given to WW1 himself in similar terms. Thus it could be seen that the engagement in the Respondent Institute is on the basis of a contract for a particular period. Ext.W218 to Ext.W230 are all offers given to different persons for work for a period of 6 months starting from 04.04.2013. In some of the documents contracts are shown to have been extended for a period of 3 months also. No documents are produced to show from which date the concerned employees have been working in the Institute.

10. The counsel for the Respondent has referred to the decision of the Apex Court in BHAVNAGAR MUNICIPAL CORPORATION VS. SALIMBHAI UMARBHAI MANSURI reported in 2013-14-SCC-456 to argue for the position that termination of service after expiry of the contract does not amount to retrenchment. It was held here that on the basis of the contract entered into by the employer and the employee the employment was short-lived and was liable to termination on expiry of the period mentioned in the contract of appointment. According to the counsel for the Respondent the concerned employees having been appointed based on contract they are liable to be terminated on the expiry of the period of the contract and they are not entitled to any relief as claimed by them. Reference was also made to the decision in STATE OF MAHARASHTRA AND OTHERS VS. ANITA AND OTHERS reported in 2016 3 LLN 544 (SC) in this respect. In this the Apex Court has held that when the terms of the agreement specifically laid down that the appointment is purely contractual the employee will not be entitled to claim any right or benefits whatsoever of permanent service in the Government. In this case the appointment was initially made for 11 months but renewed twice. The employees have challenged their termination. It was held that after having accepted contractual appointment the employees are estopped from challenging the terms of their appointment.

11. The contracts on the basis of which the concerned employees were engaged were only for a particular period. The contracts might have been renewed or extended for another period. However, the employees have accepted the terms of the contract including the one for their automatic termination on the expiry of the period. They could not claim any right in view of the very terms of the contracts by which they were engaged.

12. Even otherwise the concerned employees are not entitled to any relief. The Respondent has taken a contention that it is engaged in research in Classical Tamil and it is not a commercial or industry coming under Section-2(j) of the ID Act and for this reason the dispute is not maintainable before this Tribunal also.

13. In spite of the contention by the Respondent that it is not an industry the petitioner has not made any attempt to prove that it is an Industry and this Tribunal has jurisdiction to adjudicate the matter. The Apex Court has held in the decision in STATE OF GUJARAT VS. PRATAM SING NARSING PARMAR reported in 2001 1 LLJ 1118 that if a dispute arises as to whether a particular establishment or a part of it wherein an appointment has been made is an industry or not it would be for the person concerned who claims the same to be an industry to give positive facts for coming to the conclusion that it constitutes an Industry. Reference is also to be made to the decision of the Apex court in PHYSICAL RESEARCH LABORATORY VS. K.G. SHARMA reported in 1997 4 SCC 257 where it was held that Physical Research Laboratory is an Institute doing research and could not be said to be carrying on any trade or business and its activities will not result in production or distribution of goods or services calculated to satisfy human wants and wishes. In the same manner the Respondent Institution is one devoted to research on Classical Tamil. The petitioner has not established that it is carrying on any trade or business and its activities result in production or distribution of goods or services calculated to satisfy human wants and wishes. So there is no evidence to show that the Respondent is an industry coming under Section-2(j) of the Industrial Disputes Act. For this reason itself the petitioner is not entitled to any relief.

In view of the discussion above, the reference is answered against the petitioner. An Award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th December, 2016,)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner	:	WW1, Sri A. Arokiadaoss
For the 2 nd Party/Management	:	None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	March 1983	10 th Mark Statement of P. Kannadhasan
Ext.W2	March 1985	12 th Mark Statement of P. Kannadhasan

Ext.W3	October 1985	12 th Mark Statement of P. Kannadhasan
Ext.W4	March 1986	10 th Mark Statement of S. Geetha
Ext.W5	March 1989	10 th Mark Statement of S. Velmurugan
Ext.W6	October 1989	10 th Mark Statement of S. Velmurugan
Ext.W7	October 1989	B.Sc., Degree Consolidate Mark Statement of P. Kannadhasan
Ext.W8	October 1989	B.Sc. Degree Convocation of P. Kannadhasan
Ext.W9	Dec. 1989	Tamil Typewriting (Junior Grade) Certificate of S. Geetha
Ext.W10	30.09.1990	Computer Course (Data Entry Operation) Certificate Computer of S. Geetha
Ext.W11	March 1991	Basic, Cobol & Dbase III Plus Course of S. Geetha
Ext.W12	April 1991	10 th Mark Statement of S. Velmurgan
Ext.W13	April 1991	Diploma (Commercial Practice) Provisional Certificate of S. Geetha
Ext.W14	April 1992	10 TH Mark Statement of D. Senthil Kumar
Ext.W15	April 1992	10 th Mark Statement of K. Sankar
Ext.W16	March 1993	12 th Mark Statement of S. Velmurugan
Ext.W17	April 1993	M.A. Degree Cumulative Marks Statemement of P. Kannadhasan
Ext.W18	April 1993	10 th Mark Statement of M. Susila
Ext.W19	April 1993	M.A. Degree Convocation of P. Kannadhasan
Ext.W20	Dec. 1993	NET Certificate of P. Kannadhasana
Ext.W21	Feb. 1994	M.Phil. Degree Mark Statement of P. Kannadhasan
Ext.W22	March 1994	12 th Mark Statement of D. Senthil Kumar
Ext.W23	March 1994	12 th Mark Statement of K. Sankar
Ext.W24	April 1994	10 th Mark Statement of S. Rajesh Kumar
Ext.W25	March 1995	12 th Mark Statement of M. Susila
Ext.W26	March 1995	10 th Mark Statement of V. Alagamuthu
Ext.W27	March 1995	10 th Mark Statement of P. Raja
Ext.W28	August 1995	M.Phil. Degree Convocation of P. Kannadhasan
Ext.W29	March 1996	10 th Mark Statement of T. Poovai Subramanian
Ext.W30	March 1996	10 th Mark Statement of S. Rajesh Kumar
Ext.W31	Sept. 1996	12 th Mark Statement of S. Rajesh Kumar
Ext.W32	April 1997	10 th Mark Statement of A. Arockia Doss
Ext.W33	April 1997	10 th Mark Statement of V. Gayathri
Ext.W34	July 1997	Typewriting Tamil (Senior Grade) Certificate of K. Sankar
Ext.W35	Sept. 1997	Diploma in Sanskrit Mark List (Part-I) of M. Susila
Ext.W36	Feb. 1998	Diploma in Sanskrit Mark List (Part-II) of M. Susila
Ext.W37	Feb. 1998	Diploma in Sanskrit Certificate of M. Susila
Ext.W38	March 1998	12 th Mark Statement of T. Poovai Subramanian
Ext.W39	March 1998	12 th Mark Statement of P. Raja
Ext.W40	April 1998	B.A. Degree Provisional Certificate of S. Velmurugan
Ext.W41	April 1998	B.Lit. Degree Consolidate Mark Statement of M. Susila
Ext.W42	April 1998	B.A. Degree Provisional Certificate of S. Velmurugan

Ext.W43	April 1998	B.Lit. Degree Provisional Certificate of M. Susila
Ext.W44	April 1998	B.Lit. Degree Convocation of M. Susila
Ext.W45	Oct. 1998	10 th Mark Statement of V. Alagamuthu
Ext.W46	Dec. 1998	Diploma Certificate (Electronics) of K. Sankar
Ext.W47	Jan. 1999	English Typewriting (Junior Grade) of S. Rajesh Kumar
Ext.W48	March 1999	12 th Mark Statement of A. Arockia Doss
Ext.W49	April 1999	B.E. Degree Convocation of D. Senthil Kumar
Ext.W50	May 1999	Certificate Course in Screen Printing of K. Sankar
Ext.W51	March 2000	10 th Mark Statement of S. Nagoorammal
Ext.W52	April 2000	M.A. Degree Consolidated Mark Statement of M. Susila
Ext.W53	April 2000	M.A. (Tamil) Degree Provisional Certificate of M. Susila
Ext.W54	April 2000	M.A. (Tamil) Degree Convocation M. Susila
Ext.W55	April 2000	B.A. Degree Consolidate Mark List of S. Rajesh Kumar
Ext.W56	April 2000	B.A., Degree Convocation of S. Rajesh Kumar
Ext.W57	Nov. 2000	M.L.I.S. Degree Mark List (I-Sem) of S. Rajesh Kumar
Ext.W58	March 2001	M.Phil., Degree I-Sem. Mark List of M. Susila
Ext.W59	March 2001	12 th Mark Statement of V. Alagamuthu
Ext.W60	15.04.2001	Manuscript Training Certificate of M. Susila
Ext.W61	April 2001	B.A. Degree Consolidated Mark List of P. Raja
Ext.W62	April 2001	B.A. Degree Provisional Certificate of P. Raja
Ext.W63	April 2001	B.A. Degree Convocationh of P. Raja
Ext.W64	May 2001	M.A. Degree Provisional Certificate of S. Selvamurugan
Ext.W65	May 2001	M.A. Degree Convocation S. Velmurugan
Ext.W66	May 2001	English Typewriting (senior Grade) of V. Gayathri
Ext.W67	May 2001	MLIS Degree Mark List (I-Sem) of S. Rajesh Kumar
Ext.W68	May 2001	MLIS Degree Mark List (II-Sem) of S. Rajesh Kumar
Ext.W69	June 2001	P.G. Diploma in Linguistics of S. Velmurugan
Ext.W70	August 2001	M.Phil. Degree II-Sem. Mark List of M. Susila
Ext.W71	August 2001	M.Phil. Provisional Certificate of M. Susila
Ext.W72	August 2001	M.Phil. Degree Convocation of M. Susila
Ext.W73	Nov. 2001	MLIS Degree Mark List (III-Sem) of S. Rajesh Kumar
Ext.W74	27.12.2001	Certificate of Diploma Computer (DCA) of V. Alagamuthu
Ext.W75	March 2002	12 th Mark Statement of S. Nagoorammal
Ext.W76	May 2002	MLIS Degree Mark List (III-Sem) of S. Rajesh Kumar
Ext.W77	May 2002	MLIS Degree Mark List (IV-Sem) of S. Rajesh Kumar
Ext.W78	May 2002	MLIS Degree Convocation of S. Rajesh Kumar
Ext.W79	03.07.2002	Certificate Court in Computer Application of V. Gayathri
Ext.W80	2002	Ph.D. Degree Convocatiion of P. Kannadhasan
Ext.W81	Dec. 2002	M.Phil. Degree Mark List (I-Sem) of S. Rajesh Kumar
Ext.W82	April 2003	M.A. Degree Convocation of T. Poovai Subramanian
Ext.W83	April 2003	B.A. Degree Consolidated Mark Statement of A. Arockia Doss

Ext.W84	April 2003	B.A. Degree Provisional Certificate of A. Arockia Doss
Ext.W85	April 2003	M.A. (Ling.) Degree Consolidated Mark List of P. Raja
Ext.W86	April 2003	M.A. (Ling) Degree Provisional Certificate of P. Raja
Ext.W87	June 2003	M.Phil. Degree Mark List (II-Sem) of S. Rajesh Kumar
Ext.W88	Oct. 2003	M.Phil. Degree Provisional Certificate of S. Velmurugan
Ext.W89	October 2003	M.Phil. Degree Convocation of S. Velmurugan
Ext.W90	Dec. 2003	NET Certificate of T. Poovai Subramanian
Ext.W91	Feb. 2004	M.Phil. Degree Mark List (II-Sem) of S. Rajesh Kumar
Ext.W92	Feb. 2004	M.Phil Degree Convocation of S. Rajesh Kumar
Ext.W93	April 2004	B.A. Degree Cumulative Marks Statement of V. Alagamuthu
Ext.W94	April 2004	B.A. Degree Provisional Certificate of V. Alagamuthu
Ext.W95	April 2004	B.A. Degree Convocation of V. Alagamuthu
Ext.W96	April 2004	M.Phil (Ling.) Degree Mark List of P. Raja
Ext.W97	April 2004	M.Phil (Ling.) Degree Convocation of P. Raja
Ext.W98	April 2004	M.Phil (Ling.) Provisional Certificate of P. Raja
Ext.W99	28.08.2004	Certificate Course in Malayalam Mark List of A. Arockia Doss
Ext.W100	15.10.2004	Teaching Experience (22.01.2003– 31.03.2014) Certificate of P. Kannadhasan
Ext.W101	April 2005	B.Sc. Degree Consolidated Mark Statement of S. Nagoorammal
Ext.W102	May 2005	Hindi Typewriting (Senior Grade) of V. Gayathri
Ext.W103	June 2005	M.A. Degree Consolidated Statement of Grades of A. Arockia Doss
Ext.W104	June 2005	M.A. Degree Course Convocation of A. Arockia Doss
Ext.W105	10.06.2005	Bengali Language Intensive Course Mark Sheet of S. Nagoorammal
Ext.W106	11.06.2005	Bengali Language Intensive Course Mark Sheet of M. Susila
Ext.W107	22.07.2005	Bengali Language Intensive Course Certificate of M. Susila
Ext.W108	15.10.2005	Classical Tamil Programmer News Paper Advtersiment of D. Senthil Kumar
Ext.W109	April 2006	M.Phil Degree Mark List of (I-Sem) A. Arockia Doss
Ext.W110	April 2006	M.A. Degree Consolidated Marks Statement of V. Alagamuthu
Ext.W111	April 2006	M.A. Degree Provisional Certificate of V. Alagamuthu
Ext.W112	April 2006	M.A. Degree convocation of V. Alagamuthu
Ext.W113	21.04.2006	Appointment Order of D. Senthil Kumar Issued by the Respondent Institution
Ext.W114	29.05.2006	Position and Pay Order of D. Senthil Kumar by the Respondent Institution
Ext.W115	August 2006	M.Phil Degree Mark List of (II-Sem) A. Arockia Doss
Ext.W116	April 2006	M.Phil. Degree Convocation of A. Arockia Doss
Ext.W117	10.11.2006	Ph.D. Provisional Certificate of S. Velmurugan
Ext.W118	Nov. 2006	Ph.D. Convocation of S. Velmurugan
Ext.W119	30.11.2006	Research Experience Certificate (01.11.2005 – 30.11.2006) of S. Velmurugan
Ext.W120	March 2007	M.Phil Degree Mark List (Part-I) of V. Alagamiuthu
Ext.W121	March 2007	M.Phil. Degree Provisional Certificate of V. Alagamuthu

Ext.W122	April 2007	M.A. (Ling) Degree consolidated Mark Statement of S. Nagoorammal
Ext.W123	April 2007	M.A. (Ling) Degree Convocation of S. Nagoorammal
Ext.W124	23.05.2007	Call for applications
Ext.W125	31.05.2007	Renewal Order for the year 2007-2008 of D. Senthil Kumar
Ext.W126	26.07.2007	Interview Call Letter of K. Sankar by the Respondent Institution
Ext.W127	26.07.2007	Interview Call Letter of V. Gayathri by the Respondent Institution
Ext.W128	10.08.2007	Interview Call Letter of V. Alagamuthu by the Respondent Institution
Ext.W129	10.08.2007	Interview Call Letter of M. Susila by the Respondent Institution
Ext.W130	10.08.2007	Interview Call Letter of T. Poovai Subramanian by the Respondent Institution
Ext.W131	11.08.2007	Joining Order of V. Gayathri by the Respondent Institution
Ext.W132	13.08.2007	Interview Call Letter of P. Raja by the Respondent Institution
Ext.W133	27.09.2007	Joining Order of A. Arockia Doss by the Respondent Institution
Ext.W134	27.09.2007	Joining Order of V. Alagamuthu by the Respondent Institution
Ext.W135	27.09.2007	Joining Order of M. Susila by the Respondent Institution
Ext.W136	27.09.2007	Joining Order of S. Karumbayiram by the Respondent Institution
Ext.W137	Oct. 2007	M.Phil.Degree Mark List (Part-II) of V. Alagamuthu
Ext.W138	08.10.2007	P.hd. Provisional Certificate of M. Susila
Ext.W139	Oct. 2007	P.hd. Convocation of M. Susila
Ext.W140	October 2007	M.Phil. Degree Convocation of V. Alagamuthu
Ext.W141	22.10.2007	Joining Order of T. Poovai Subramanian by the Respondent Institution
Ext.W142	22.10.2007	Joining Order of P. Raja by the Respondent Institution
Ext.W143	08.11.2007	Joining Order of P. Kannadhasan by the Respondent Institution
Ext.W144	17.01.2008	Joining Order of S. Velmurugan by the Respondent Institution
Ext.W145	15.05.2008	Renewal Order for the year 2008-2009 of D. Senthil Kumar
Ext.W146	16.05.2008	Transfer Order of V. Velmurugan issued by the Respondent Institution
Ext.W147	16.05.2008	Transfer Order of M. Susila issued by the Respondent Institution
Ext.W148	16.05.2008	Transfer Order of P. Kannadhasan issued by the Respondent Institution
Ext.W149	16.05.2008	Transfer Order of V. Alagamuthu issued by the Respondent Institution
Ext.W150	16.05.2008	Transfer Order of T. Poovai Subramanian issued by the Respondent Institution
Ext.W151	16.05.2008	Transfer Order of D. Senthil Kumar issued by the Respondent Institution
Ext.W152	16.05.2008	Transfer Order of S. Karumbayiram issued by the Respondent Institution
Ext.W153	16.05.2008	Transfer Order of V. Gayathri issued by the Respondent Institution
Ext.W154	16.05.2008	Transfer Order of S. Rajesh Kumar issued by the Respondent Institution
Ext.W155	16.05.2008	Transfer Order of P. Raja issued by the Respondent Institution
Ext.W156	16.05.2008	Transfer Order of S. Nagoorammal issued by the Respondent Institution
Ext.W157	May 2008	M.A. (Ling) I-Year Mark List of M. Susila
Ext.W158	27.05.2008	Pay & Position Order of V. Gayathri by the Respondent Institution
Ext.W159	June 2008	M.A. (Eng) I-Year Mark List of M. Susila
Ext.W160	August 2008	Ph.D. convocation of T. Poovai Subramanian

Ext.W161	Jan. 2009	M.A. (Eng.) I-Year Mark List of M. Susila
Ext.W162	06.03.2009	Certificate of Diploma in Desk Top Publishing of S. Velmurugan
Ext.W163	02.04.2009	Renewal Order for the Year 2009-2010 of D. Senthil Kumar
Ext.W164	May 2009	M.A. (Ling) II-Year Mark List of M. Susila
Ext.W165	May 2009	M.A. (Ling) Provisional Certificate of M. Susila
Ext.W166	May 2009	M.A. (Ling) Convocation of M. Susila
Ext.W167	06.05.2009	Work Assignment Order of D. Senthil Kumar by the Respondent Institution
Ext.W168	06.05.2009	Work Assignment Order of K. Sankar by the Respondent Institution
Ext.W169	07.05.2009	Work Assignment Order of D. Senthil Kumar by the Respondent Institution
Ext.W170	June 2009	M.A. (Eng.) II Year Mark List of M. Susila
Ext.W171	June 2009	M.A. (Eng.) Provisional Certificate of M. Susila
Ext.W172	June 2009	M.A. (Eng.) Convocation of M. Susila
Ext.W173	August 2009	Ph.D. Convocation of A. Arockia Doss
Ext.W174	24.08.2009	Pay Revision Order of D. Senthil Kumar by the Respondent Institution
Ext.W175	02.12.2009	Work Assignment Order of S. Geetha by the Respondent Institution
Ext.W176	12.03.2010	Promotion Order and Pay Revised Order of K. Sankar by the Respondent Institution
Ext.W177	12.03.2010	Promotion Order and Pay Revised Order of V. Gayathri by the Respondent Institution
Ext.W178	01.04.2010	Joining Report of V. Gayathri
Ext.W179	26.04.2010	Renewal Order for the Year 2010-2011 of D. Senthil Kumar
Ext.W180	2010	M.A. Degree Convocation of G. Gayathri
Ext.W181	27.06.2010	NET Certificate of M. Susila
Ext.W182	22.10.2010	Authorization letter of V. Alagamuthu by the Respondent Institution
Ext.W183	22.10.2010	Experience Certificate (12.10.2007 to 22.10.2010) of V. Alagamuthu by the Respondent Institution
Ext.W184	03.12.2010	Experience Certificate (12.10.2007 to 31.08.2009) of A. Arockia Doss by the Respondent Institution
Ext.W185	05.01.2011	Ph.D. Registration Approval Order of V. Alagamuthu by the Respondent Institution
Ext.W186	18.04.2011	Renewal Order for the Year 2011-2012 of D. Senthil Kumar
Ext.W187	18.04.2011	Renewal Order for the year 2011-2012 of V. Gayathri
Ext.W188	03.05.2011	Authorization Letter of S. Rajesh Kumar
Ext.W189	May 2011	M.A. Linguistics Degree Mark Statement (I-Year) of V. Alagamuthu
Ext.W190	26.07.2011	Eleven (11) Departments have been formed
Ext.W191	14.08.2011	State Eligibility Test for Lectureship (SET) Certificate of V. Alagamuthu
Ext.W192	04.11.2011	Disability Certificate of A. Arockia Doss by Government of Tamil Nadu
Ext.W193	Nov. 2011	B.Com. Degree Mark Statement of S. Geetha
Ext.W194	Nov. 2011	B.Com. Degree Provisional Certificate of S. Geetha
Ext.W195	08.12.2011	PGDCA Certificate of S. Rajesh Kumar

Ext.W196	28.02.2012	Experience Certificate (24.01.2008 to 28.02.2012) of S. Velmurugan by the Respondent Institution
Ext.W197	28.03.2012	Ph.D. Convocation of P. Raja
Ext.W198	03.04.2012	Renewal Order for the year 2012-2013 of S. Velmurugan
Ext.W199	03.04.2012	Renewal Order for the year 2012-2013 of T. Poovai Subramanian
Ext.W200	03.04.2012	Renewal Order for the year 2012-2013 of D. Senthil Kumar
Ext.W201	03.04.2012	Renewal Order for the year 2012-2013 of V. Alagamuthu Kumar
Ext.W202	03.04.2012	Renewal Order for the year 2012-2013 of M. Susilal Kumar
Ext.W203	03.04.2012	Renewal Order for the year 2012-2013 of K. Sankar Kumar
Ext.W204	03.04.2012	Renewal Order for the year 2012-2013 of V. Gayathri Kumar
Ext.W205	03.04.2012	Renewal Order for the year 2012-2013 of S. Nagoorammal Kumar
Ext.W206	03.04.2012	Renewal Order for the year 2012-2013 of S. Geetha Kumar
Ext.W207	03.04.2012	Renewal Order for the year 2012-2013 of S. Rajesh Kumar
Ext.W208	14.05.2012	Eleven Departments had to be restricted as Twelve Departments as per the MoA
Ext.W209	May 2012	M.A. Linguistics Degree Mark Statement (II-Year) of V. Alagamuthu
Ext.W210	04.06.2012	Director approved for restructured twelve departments as per MoA
Ext.W211	Oct. 2012	12 th Mark Statement of V. Gayathri
Ext.W212	Dec. 2012	M.A. Linguistics Degree Mark Statement (II-Year) of V. Alagamuthu
Ext.W213	Dec. 2012	M.A. Linguistics Provisional Certificate of V. Alagamuthu]
Ext.W214	05.12.2012	Experience Certificate (12.10.2007 to 05.12.2012) of V. Alagamuthu by the Respondent Institution
Ext.W215	05.12.2012	Experience Certificate (24.01.2008 to 05.12.2012) of S. Velmurugan by the Respondent Institution
Ext.W216	05.12.2012	Experience Certificate (13.08.2007 to 31.12.2012) of V. Gayathri by the Respondent Institution
Ext.W217	05.12.2012	Experience Certificate (09.07.2007 to 31.12.2012) of S. Rajesh Kumar by the Respondent Institution
Ext.W218	20.05.2013	Renewal Order and Terms & Conditions for the year (04.04.2013-04.10.2013)
Ext.W219	20.05.2013	Renewal Order for the year (04.04.2013 – 04.10.2013) of V. Alagamuthu
Ext.W220	20.05.2013	Renewal Order and Terms and Conditions for the year (04.04.2013 – 04.10.2013) of M. Susila
Ext.W221	20.05.2013	Renewal Order and Terms and Conditions, Work Assignment order for the year (04.04.2013 – 04.10.2013) of S. Nagoorammal
Ext.W222	30.09.2013	Experience Certificate (29.10.2007 to 30.09.2013) of T. Poovai Subramanian by the Respondent Institution
Ext.W223	18.10.2013	Renewal Order for the year (04.10.2013 – 04.01.2014) of S. Velmurugan
Ext.W224	18.10.2013	Renewal Order for the year (04.10.2013 – 04.01.2014) of D. Senthil Kumar
Ext.W225	18.10.2013	Renewal Order for the year (04.10.2013 – 04.01.2014) of V. Alagamuthu
Ext.W226	18.10.2013	Renewal Order for the year year (04.10.2013 – 04.01.2014) of M. Susila
Ext.W227	18.10.2013	Renewal Order for the year year (04.10.2013 – 04.01.2014) of S. Nagoorammal

Ext.W228	31.10.2013	Renewal Order for the year year (05.11.2013 – 04.04.2014) of S. Velmurugan
Ext.W229	31.10.2013	Renewal Order for the year year (05.11.2013 – 04.04.2014) of M. Susila
Ext.W230	31.10.2013	Renewal Order for the year (05.11.2013 – 04.04.2014) of D. Senthil Kumar
Ext.W231	04.01.2014	M.Phil., Degree Cumulative Marks Statement of S. Velmurugan
Ext.W232	06.01.2014	M.A., Degree Cumulative Marks Statement of S. Velmurugan
Ext.W233	17.01.2014	Experience Certificate (12.10.2007 to 17.01.2014) of V. Alagamuthu by the Respondent Institution
Ext.W234	09.04.2014	Teaching Experience (06.1.22006-11.01.2008) Certificate of S. Velmurugan
Ext.W235	11.04.2014	Renewal Order for the year (07.04.2014 – 31.03.2015) of T. Poovai Subramanian
Ext.W236	11.04.2014	Renewal Order and Terms & Conditions for the year (07.04.2014 – 31.03.2015)
Ext.W237	15.04.2014	Renewal Order and Terms and Conditions for the year (07.04.2014 – 31.03.2015) of S. Velmurugan
Ext.W238	15.04.2014	Renewal Order for the Year (07.04.2014 – 31.03.2015) of D. Senthil Kumar
Ext.W239	15.04.2014	Renewal Order for the year (07.04.2014 – 31.03.2015) of V. Alagamuthu
Ext.W240	15.04.2014	Renewal Order for the year (07.04.2014 – 31.03.2015) of K. Sankar
Ext.W241	15.04.2014	Terms & Conditions and Work Assignment Order of P. Raja by the Respondent Institution
Ext.W242	15.04.2014	Renewal Order and Terms & Conditions for the year (07.04.2014 – 31.03.2015) of S. Nagoorammal
Ext.W243	19.05.2014	Pay Revision Order of S. Velmurugan by the Respondent Institution
Ext.W244	19.05.2014	Pay Revision Order of D. Senthil Kumar by the Respondent Institution
Ext.W245	19.05.2014	Pay Revision Order of V. Alagamuthu by the Respondent Institution
Ext.W246	19.05.2014	Pay Revision Order of K. Sankar by the Respondent Institution
Ext.W247	19.05.2014	Pay Revision Order of S. Rajesh Kumar by the Respondent Institution
Ext.W248	19.05.2014	Pay Revision Order of P. Raja by the Respondent Institution
Ext.W249	19.05.2014	Pay Revision Order of S. Nagoorammal by the Respondent Institution
Ext.W250	04.06.2014	General Demands raised under Section 2(k) Industrial Disputes Act 1947 by the petitioner
Ext.W251	28.07.2014	Reply given by Management
Ext.W252	27.08.2014	Authorization letter of V. Alagamuthu by the Respondent Institution
Ext.W253	30.09.2014	Conciliation Information Letter (2k)
Ext.W254	14.10.2014	Experience Certificate (09.10.2007 to 14.10.2014) of S. Nagoorammal by the Respondent Institution
Ext.W255	15.10.2014	Experience Certificate (12.10.2007 to 15.10.2014) of V. Alagamuthu by the Respondent Institution
Ext.W256	13.11.2014	Conciliation Information Letter (2k)
Ext.W257	24.11.2014	Conciliation Information Letter (2k)
Ext.W258	11.12.2014	Labour Commissioner Conciliation Proceedings

Ext.W259	17.12.2014	Ph.D. Thesis Submission Certificate of V. Alagamuthu
Ext.W260	22.12.2014	Rejoin defiled by petitioner
Ext.W261	30.12.2014	Memo filed by the petitioner
Ext.W262	03.03.2015	Experience Certificate (01.11.2007 to 03.03.2015) of S. Nagoorammal by the Respondent Institution
Ext.W263	03.03.2015	Experience Certificate (09.10.2007 to 03.03.2015) of S. Nagoorammal by the Respondent Institution
Ext.W265	31.03.2015	Request for engagement letter of S. Velmurugan by the Respondent Institution
Ext.W266	31.03.2015	Engagement Order for the year (06.04.2015-31.03.2016) of V. Alagamuthu
Ext.W267	31.03.2015	Engagement Order for the year (06.04.2015-31.03.2016) of V. Gagathri
Ext.W268	31.03.2015	Engagement Order for the year (06.04.2015-31.03.2016) of P. Raja
Ext.W269	31.03.2015	Engagement Order for the year (06.04.2015-31.03.2016) of S. Nagoorammal
Ext.W270	31.03.2015	Engagement Order for the year (06.04.2015 – 31.03.2016)
Ext.W271	31.03.2015	Engagement Order for the year (06.04.2015-31.03.2016) of D. Senthil Kumar
Ext.W272	31.03.2015	Engagement Order for the year (06.04.2015-31.03.2016) of A. Arokiadoss
Ext.W273	31.03.2015	Engagement Order for the year (06.04.2015-31.03.2016) of V. Alagamuthu
Ext.W274	31.03.2015	Engagement Order for the year (06.04.2015-31.03.2016) of M. Susila
Ext.W275	21.07.2015	Work Assignment order of S. Velmurugan by the Respondent Institution
Ext.W276	21.07.2015	Work Assignment order of M. Susila by the Respondent Institution
Ext.W277	21.07.2015	Work Assignment order of A. Arokaidoss by the Respondent Institution
Ext.W278	21.07.2015	Work Assignment order of V. Alagamuthu by the Respondent Institution
Ext.W279	21.07.2015	Work Assignment order of P. Kannadasan by the Respondent Institution
Ext.W280	21.07.2015	Work Assignment order of S. Geetha by the Respondent Institution
Ext.W281	April 2015 to March 2016	ID Card of A. Arokiadoss issued by the Respondent Institution
Ext.W281	April 2015 to March 2016	ID Card of A. Arokiadoss issued by the Respondent Institution
Ext.W282	April 2015 to March 2016	ID Card of S. Velmurugan issued by the Respondent Institution
Ext.W283	April 2015 to March 2016	ID Card of A. Alagamuthu issued by the Respondent Institution
Ext.W284	April 2015 to March 2016	ID Card of M. Susila issued by the Respondent Institution
Ext.W285	April 2015 to March 2016	ID Card of S. Geetha issued by the Respondent Institution
Ext.W286	April 2015 to March 2016	ID Card of S. Karumbayiram issued by the Respondent Institution

Ext.W287	April 2015 to March 2016	ID Card of D. Senthil Kumar issued by the Respondent Institution
Ext.W288	April 2015 to March 2016	ID Card of K. Shankar issued by the Respondent Institution

On the Management's side

Ex.No.	Date	Description
Ext.M1	May 2013	Offer of Contract for the year 2013-2014 and Terms and Conditions and acceptance
Ext.M2	April 2014	Offer of Contract for the year 2014-2015 Terms and conditions and acceptance

नई दिल्ली, 2 मार्च, 2017

का.आ. 623.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, एम/एस के.एस.जे. डायनामिक सुरक्षा प्राइवेट लिमिटेड, नई दिल्ली व अन्य एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1 दिल्ली के पंचाट (संदर्भ संख्या 114/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/32/2016-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 623.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 114/2016) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, M/s K.S.J. Dynamic Security Pvt. Ltd., New Delhi, others and their workman, which was received by Central Government on 14.12.2016.

[No. L-42011/32/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No.114/2016

Shri Basudev Mishra, through
The Secretary,
Bhartiya Karamchari General Mazdoor Union(Regd.)
A-590, Gola Kuan, Tehkhand (Near F-22),
Okhla Phase I,
New Delhi – 110 020

...Workman

Versus

1. The Director,
M/s K.S.J. Dynamic Security Pvt. Ltd.
Plot No.273, 2nd Floor, Old Delhi,
Gurgaon Road, Kapashera
New Delhi 110 037

2. M/s F.M.E.C. Pratibha,
J.B.C.C.-23, Pushpa Bhawan,
Pushp Vihar,
New Delhi 110 062

...Managements

AWARD

Central Government, vide letter No.L-42011/32/2016-IR(DU) dated 12.04.2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether termination of services of the workman Shri Basudev Mishra with effect from 21.05.2014 by the management of K.S.J. Dynamic Security Pvt. Ltd./FMEC Pratibha is just, fair and legal? If not what relief the workman concerned is entitled to?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Basudev Mishra opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Section 10(1)(d) of the Act empowers the appropriate Government to refer an industrial dispute or any matter appearing to be connected with or relevant to such dispute, whether it relates to any matter specified in the Second or the Third Schedule of the Industrial Disputes Act, 1947 for adjudication to the Tribunal constituted under the Act. When a dispute is referred to the Tribunal, it is required to adjudicate the industrial dispute. Therefore, it is apparent that the appropriate Government can refer an industrial dispute to the Tribunal, relating to any matter specified in the Second or the Third Schedule of the Act. However, for making such a reference, Government making the reference to the Tribunal should be appropriate Government for that industrial dispute. However, the Central Government is not the appropriate Government for the dispute under reference. Consequently, it is clear that the reference of the dispute by the Central Government is incompetent and this Tribunal cannot invoke its jurisdiction to adjudicate this dispute. In view of this, it is concluded that the reference of the dispute to this Tribunal for adjudication is incompetent, since the Central Government is not the appropriate Government for this dispute. When Central Government is not the appropriate Government for making reference of the dispute for adjudication, this Tribunal cannot invoke its jurisdiction to adjudicate the issues on merits. Consequently, the Tribunal refrains its hands from adjudication. An award is passed, in view of the observations made above. It be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

November 28, 2016

A.C. DOGRA, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 624.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, एम/एस के.एस.जे. डायनामिक सुरक्षा प्राइवेट लिमिटेड, नई दिल्ली व अन्य एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1 दिल्ली के पंचाट (संदर्भ संख्या 113/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/31/2016-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 624.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 113/2016) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the

Director, M/s K.S.J. Dynamic Security Pvt. Ltd., New Delhi, others and their workman, which was received by Central Government on 14.12.2016.

[No. L-42011/31/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No.113/2016

Shri Krishanpal Singh, through

The Secretary,
Bhartiya Karamchari General Mazdoor Union(Regd.)
A-590, Gola Kuan, Tehkhand (Near F-22),
Okhla Phase I,
New Delhi – 110 020

...Workman

Versus

1. The Director,
M/s K.S.J. Dynamic Security Pvt. Ltd.
Plot No.273, 2nd Floor, Old Delhi,
Gurgaon Road, Kapashera
New Delhi 110 037

2. M/s F.M.E.C. Pratibha,
J.B.C.C.-23, Pushpa Bhawan,
Pushp Vihar,
New Delhi 110 062

...Managements

AWARD

Central Government, vide letter No.L-42011/31/2016-IR(DU) dated 12.04.2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether termination of services of the workman Shri Krishanpal Singh with effect from 18.07.2013 by the management of K.S.J. Dynamic Security Pvt. Ltd./FMEC Pratibha is just, fair and legal? If not what relief the workman concerned is entitled to?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Krishanpal Singh opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Section 10(1)(d) of the Act empowers the appropriate Government to refer an industrial dispute or any matter appearing to be connected with or relevant to such dispute, whether it relates to any matter specified in the Second or

the Third Schedule of the Industrial Disputes Act, 1947 for adjudication to the Tribunal constituted under the Act. When a dispute is referred to the Tribunal, it is required to adjudicate the industrial dispute. Therefore, it is apparent that the appropriate Government can refer an industrial dispute to the Tribunal, relating to any matter specified in the Second or the Third Schedule of the Act. However, for making such a reference, Government making the reference to the Tribunal should be appropriate Government for that industrial dispute. However, the Central Government is not the appropriate Government for the dispute under reference. Consequently, it is clear that the reference of the dispute by the Central Government is incompetent and this Tribunal cannot invoke its jurisdiction to adjudicate this dispute. In view of this, it is concluded that the reference of the dispute to this Tribunal for adjudication is incompetent, since the Central Government is not the appropriate Government for this dispute. When Central Government is not the appropriate Government for making reference of the dispute for adjudication, this Tribunal cannot invoke its jurisdiction to adjudicate the issues on merits. Consequently, the Tribunal refrains its hands from adjudication. An award is passed, in view of the observations made above. It be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

November 28, 2016

A.C. DOGRA, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 625.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अध्यक्ष, एम/एस भारती एयरटेल सर्विसेज लिमिटेड, नई दिल्ली व अन्य एवं उनके कर्मचारी, के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. II दिल्ली के पंचाट (संदर्भ संख्या 171/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2016 को प्राप्त हुआ था।

[सं. एल-40012/49/2015-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 625.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 171/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Chairman, M/s. Bharti Airtel Services Limited New Delhi, others and their workman, which was received by Central Government on 26.12.2016.

[No. L-40012/49/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT - II, ROOM No. 33,
BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX,
KARKARDOOMA, DELHI 110 032**

Present:- Shri Harbansh Kumar Saxena

ID. No. 171/2015

Sh. Paras Kumar Singh, S/o Sh. Bajnath Singh,
R/o Sector-45, Sardarpur Colony, Near Som Bazar,
Gali No. 3, Moolchand High School, Noida,
Gautam Buddh Nagar (UP) -201301.

Versus

The Chairman/Managing Director,
M/s Bharti Airtel Services Limited,
Regd. Office –Bharti Crescent, 1 Nelso Mandela Rd.
Vasant Kunj Phase –II,
New Delhi.

The Managing Director,
M/s Telesonic Networks Limited,
A-27, 2nd Floor, Sigma Tower Infocity,
Sector-3, Gurgaon,
Haryana-122001

No DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-40012/49/2015 -(IR(DU)) dated 02.11.2015 referred the following industrial Dispute to this Tribunal for the adjudication :-

“Whether the services of the workman Sh. Paras Kumar Singh S/o Bajnath Singh have been terminated illegal and/or unjustifiably by the management and if so to what relief is the workman entitled and what directions are necessary in this respect?

On 18.01.2015 reference was received in this tribunal. Which was register as I.D No. 171/2015 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant Sh. Paras Kumar Singh not filed claim statement but management in response to reference filed response wherein it mentioned as follows:-

That the present dispute is pending adjudication before this Hon'ble Court and is now listed for hearing on 11.08.2016.

That the Claimant has already left his services with the answering respondent after having taken all his dues and thus relinquished his right over his employment much less over the re-employment/ reinstatement with the answering respondent. After receipt of the terminal benefits in full and final settlement of his dues from the management in full, nothing remains between the claimant and the management.

The claimant after having received all the benefits is not permitted to resile from the same. The copy of the experience letter dated 31.07.2009 is annexed as ANNEXURE 1.

In view of the above submissions it is respectfully submitted that the Management never terminated the services of the Claimant and the Claimant has received his full and final dues and thus relinquished his right over the employment much less over the re-employment/ reinstatement with the answering respondent.

It is therefore most respectfully prayed that this Hon'ble Court may answer the reference accordingly in favour of the answering respondent and against the Claimant. The answering respondent craves leave of this Hon'ble Court to submit detailed submissions and lead evidence in case the statement of Claim is filed on behalf of the Claimant. It is submitted that the Managements reserves its right to file detailed submissions and lead evidence in case the Claimant files his statement of claim.

And/or any other order may please be passed in favour of the managements and against the Claimant as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

On the basis of non-interestedness of workman. The proceeding of this case is not liable to be proceeded further. Hence proceeding of the case is liable to be dropped and no dispute award is liable to be passed.

No Dispute Award is accordingly passed.

Dated:-25.10.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 626.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रजिस्ट्रार, जवाहरलाल नेहरू विश्वविद्यालय, नई दिल्ली व अन्य एवं उनके कर्मचारी, के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. II दिल्ली के पंचाट (संदर्भ संख्या 16/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.02.2017 को प्राप्त हुआ था।

[सं. एल-42011/08/2016-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 626.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 16/2016) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Registrar, Jawaharlal Nehru University, New Delhi, others and their workman, which was received by Central Government on 15.02.2017.

[No. L-42011/08/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No-II, KARKARDOOMA COURT COMPLEX, DELHI**

ID .No. 16/2016

The General Secretary,
All India General Kamgar Union (Regd.),
H.O-U-90 , Shakar pur,
Delhi-110092.

Versus

1. The Registrar,
Jawaharlal Nehru University,
New Delhi-110067 .
2. M/s Rakshak Securitas Pvt. Ltd.,
T-25,Plot No. 12 Manish Plaza-III, Sector -10,
Dwarka, Delhi -110075.

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-42011/08 /2016-(IR(DU)) dated 09.03.2016 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the demand of the union for paying the salary, pay and allowances to the workmen concerned mention in Annexure-A at par with their regular counterparts employed by the JNU is legal and /or justified and is so to what relief the said workmen are entitled and what directions are necessary in this regard? Whether the demand of the union to provide the benefits of bonus to the workmen mentioned in Annexure –A is legal and /or justified and if so at what rate and to what relief are the workmen concerned entitled to and what directions are necessary in this regard ? Whether the demand of the union to provide the benefits of conveyance allowance (@ Rs. 2000/- per month), HRA (@ Rs. 3000/- per month). Health allowance (@ 1000/- per month) DA over and above the basic wage, LTC to the workmen mentioned in Annexure-A is legal and /or justified and if so at what rate and to what relief are the workmen concerned entitled and what directions are necessary in this regard?”

On 5.04.2016 reference was received in this Tribunal. Which was register as I.D No. 16/2016 and claimants were called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workmen/claimants, not filed claim statement inspite of several opportunities.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this Tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parte can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated:-25/1/2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 627.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डायरेक्टर जनरल, आर्कियोलॉजिकल सर्वे ऑफ इंडिया, नई दिल्ली व अन्य एवं उनके कर्मचारी, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 130/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/112/2014-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 627.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 130/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the Director General, Archaeological Survey of India, New Delhi, and their workman, which was received by Central Government on 18.02.2017.

[No. L-42011/112/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

Before the LOK ADALAT/Central Government Industrial Tribunal-cum-Labor Court, Kanpur

Present : Sri Shubhendra Kumar, Presiding Officer

Industrial Dispute No. 130 of 2014

Between :

The President,
Archaeological Survey Mazdoor Union (INTUC),
43/16, Sec. 15-A, Sector 16,
Sikandara,
Agra-282007.

AND

The Director General,
Archaeological Survey of India,
11, Janpath,
New Delhi.

AWARD

1. Central Government, Mol, New Delhi, vide notification no. L-42011/112/2014-(IRDU) dated 02.12.14, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of ASI, Agra, in not providing employment to 1000 workers who have got temporary status and daily wagers on the vacancies of Group 'D: and non-maintenance of seniority list of these workers and also termination of the services of Sri Jaipal son of late Shiv Shiv Shaker Safai Karamchari with effect from 01.04.2011 is legal and justified? If not, what relief the worker is entitled to?
3. Earlier the case was taken up for its regular hearing on 05.09.16, but none present from the side of the union/workers nor filed its claim statement. However, one last opportunity was given to the worker for filing claim statement, but when the case was taken up in **LOK ADALAT** on 30.09.16, again none appeared from the side of the worker/union nor claim statement was filed.
4. Considering the above circumstances of the case it is very much clear that the union is not interested in prosecuting their grievance raised through present reference order.
5. Therefore, after giving sufficient opportunities to the Union when they failed to avail the opportunities and also failed to file their claim statement, the tribunal is left with no other option but to answer the reference against the Union holding that the union raising the dispute is not entitled for any relief.
6. The reference is therefore, decided through LOK ADALAT, against the Union.

Let two photocopies of this award decided through Lok Adalat be sent to the Mol & Employment for publication soft copy of the same shall be sent soon on the availability of Net Service.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 628.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीनियर जनरल मैनेजर, ओर्दनांस फैक्ट्री कानपुर व अन्य एवं उनके कर्मचारी, के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 19/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.02.2017 को प्राप्त हुआ था।

[सं. एल-14012/38/2013-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 628.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 19/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the Senior General Manager, Ordnance Factory, Kanpur, others and their workman, which was received by Central Government on 18.02.2017.

[No. L-14012/38/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE LOK ADALAT / CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR

Industrial Dispute No. 19 of 2014

Between :

Behari Traders,
through Sri Ram Ayodhya Singh,

Proprietor,
15/110, M.P. Mill Compound,
Sarvodaya Nagar,
Kanpur. U.P

Vikas Kumar son of Sri Ram Ji Lal,
House No. 3-B, Kachchi Basti Blok No.11,
Govind Nagar,
Kanpur U.P.

AND

Senior General Manager,
Ordnance Factory,
Kalpi Road,

AWARD

1. Central Government, Mol & Employment, New Delhi, vide notification L-14012/38/2013-IR (DU) dated 23.01.14 has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of M/s Behari Traders, Kanpur, in terminating the service of Sri Vikas Kumar son of Sri Ram Ji Lal, workman with effect from 06.05.13 is just fair and legal? If not, to what relief the concerned workman is entitled to?
3. In this case after receipt of the notice of the tribunal the worker filed an affidavit along with application that he is not interested to contest the present reference.
4. The present case is pending since 08.02.2014, and considering period of the pendency of the case as well affidavit of the worker filed on 07.08.14, in which he has clearly submitted that he is not interested to prosecute with the case and of his own will he interested to withdraw the present pending case from this tribunal, therefore, the Tribunal felt it to be put the present case before the LOK ADALAT, scheduled to be held on 30.09.16.
5. The case was taken up in LOK ADALAT ON 30.09.16, and as observed above that the worker is not interested in contesting his case before this tribunal and wants to withdraw the case of his case without assigning any cogent reasons.
6. Therefore, the tribunal during holding of LOK ADALAT, is constrained that the worker would prosecute his case in view of his application and affidavit submitted in the case above case. Hence it is decided that the worker is not interested in prosecuting his claim before the tribunal, therefore, his case in LOK ADALAT, is decided against him.
7. As such the case is decided against the workman through the LOK ADALAT and in favour of the Management.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 629.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डायरेक्टर, क्वालिटी सर्विसेज एंड सोल्यूशन गोवा एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 2 मुंबई के पंचाट (संदर्भ संख्या 2/41/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.01.2017 को प्राप्त हुआ था।

[सं. एल-42011/90/2013-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 629.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 2/41 of 2013) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, Quality Service and Solutions, Gao and their workman, which was received by Central Government on 03.01.2017.

[No. L-42011/90/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI****PRESENT : M.V. DESHPANDE, Presiding Officer****REFERENCE No. CGIT-2/41 of 2013****EMPLOYERS IN RELATION TO THE MANAGEMENT OF****M/S. QUALITY SERVICES & SOLUTIONS**

The Director
Quality Services and Solutions
Rukmini Tower, 2nd floor
Near Tilak Maidan
F.L. Gomes Road
Vasco-da-Gama
Goa 403 802.

AND**THEIR WORKMAN**

The General Secretary
Marmagao Waterfront Workers Union
Mukund Building, 2nd floor, PO Box No.90
Vasco-da-Gama
Goa 403 802.

APPEARANCES:

FOR THE EMPLOYER : Mr. G.K. Sardesai, Advocate.

FOR THE UNION/ WORKMAN : No appearance.

Camp : Goa, dated the 8th December, 2016.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-42011/90/2013-IR (DU), dated 10.07.2016 and corrigendum dt. 23.05.2014 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the punishment of dismissal of the workman Shri Nilkanth Moratgi from service with effect from 16.01.2013 by the management of M/s. Quality Services & Solutions is disproportionate and hash? To what relief the workman is entitled to?”

2. After receipt of the Reference, notices were issued to both the parties. First party Management filed Vakalatnama of Mr. Girish Sardesai. Matter was adjourned on several occasions for filing Statement of Claim by second party/ Union. Notices were again issued and served on second part/ Union vide Ex-11. Second party/Union neither appeared before this Tribunal nor filed Statement of claim. Without Statement of claim, the Reference cannot be decided on merits and the same deserves to be dismissed. Orders were passed on Ex-1. Accordingly I pass the following order:

ORDER

Reference stands dismissed for want of prosecution.

Date: 08.12.2016

Camp: Goa

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 630.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, इंस्ट्रुमेंटेशन लिमिटेड, पलक्कड एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्णाकुलम के पंचाट (संदर्भ संख्या 28/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/53/2012-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 630.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 28/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Eranakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Instrumentation Limited., Palakkad, and their workman, which was received by Central Government on 02.11.2016.

[No. L-42011/53/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present: Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer

(Friday the 30th day of September, 2016/08th Asvina, 1938)

ID 28/2012

- | | | |
|--------|---|---|
| Unions | : | <ol style="list-style-type: none"> 1. The General Secretary,
Instrumentation Workers Union (CITU),
Instrumentation Limited,
Kanjikode west,
Palakkad - 2. The General Secretary,
Instrumentation Employees Union (INTUC),
Instrumentation Limited,
Kanjikode west,
Palakkad - |
|--------|---|---|

By Adv. Shri. C. Anilkumar

- | | | |
|------------|---|---|
| Management | : | <p>The General Manager,
Instrumentation Limited,
Kanjikode west,
Palakkad -</p> |
|------------|---|---|

By M/s. Menon & Menon

This case coming up for final hearing on 30.09.2016 and this Tribunal-cum-Labour Court on the same day passed the following:

AWARD

In exercise of the power conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) the Central Government referred the following dispute before this Tribunal for adjudication.

2. The dispute is:

‘Whether the demand of the unions for treating stagnation increment as part of basic for the purpose of calculation DA, HRA, PF etc. is justified or not? If justified, what relief employees/union are entitled to?’

3. After receipt of the reference order No.L-42011/53/2012-IR(DU) dated 09.10.2012, issued by the Ministry of Labour, Government of India, summons was issued to parties to appear and answer all material points relating to the dispute and produce the documents to substantiate their respective contentions. On receipt of the summons, union Nos.1 & 2 and the management entered appearance through counsel and submitted their pleadings.

4. The contentions in the claim statement filed by the unions in brief are as follows:-

The Instrumentation Limited at Palakkad with its headquarters and registered office at Kota, Rajasthan is a company wholly held by the Government of India. Right from the beginning the Palakkad unit of Instrumentation Limited is a profit making venture. For all practical purposes and intent the Instrumentation Limited, Kanjikode, Palakkad is a separate unit and it has its own certified standing orders. Wage revision, bonus and other matters relating to service conditions of the employees are in accordance with the terms of the agreements and settlements arrived at by the local management and the respective unions on issue basis. Even though the employees were appointed on time scale structure, it was altered, varied and modified and even the subsequent wage revision is effected by mutual agreements. The last wage revision due for the year 1997 was given effect and implemented only on February, 2009 after a lapse of twelve years. In view of the time gap it cannot have effective wage revision settlement and there were cases of stagnation in getting increments in cases where the employees have reached the highest point in the pay scale provided in the agreement. Similar was the situation in relation to the employees who obtained promotion in the intervening period. In several cases where the increment has been granted, the amount of increment granted were specified separately in the wage slip and thereby denying the lawful benefit due to the employees.

5. As per the guidelines issued by the Department of Heavy Industries, the procedure relating to the payment of stagnation increment in the 1997 pay revision were specified in the OM dated 25.06.1999. Further as per the practice followed, the stagnation increment is to be reckoned for computation of DA, HRA, PF etc. including pay on promotion/pay revision. The management refused to implement the scheme. Therefore the union raised the issue and submitted representation before the management. They have submitted letters dated 01.02.2011 and 20.04.2011 expressing their concern. Thereafter the management informed the unions that the practice followed by them was in order and thereby turned down the request of the unions to reckon the increment granted on stagnation for computation of DA, HRA, PF etc. including fixation of pay on promotion and pay revision.

6. Due to the delay of twelve years in revision of the wage structure, as many years as 70 employees were stagnated as on the date of filing the claim statement. If timely decision relating to wage revision had taken, the question of stagnation in the pay scale would not have occurred to the employees. Many of the employees have lost the benefit of timely wage revision. Apart from this the employees lost the benefit of stagnation increment for the purpose of computation of Dearness Allowance, Provident Fund benefits, HRA etc. for the reason that the management has not treated the stagnation increment as part of basic pay. Their terminal benefits such as Provident Fund, Pension and Gratuity also were affected by the unreasonable stand on the part of the management.

7. As per the prevailing terms and conditions of service the employees are eligible and entitled for obtaining annual increments and chances of promotion unless denied on specific grounds. The denial of increment due to stagnation or consideration of stagnation increment as a separate entity without considering the same as part of basic pay for the purpose of computation of DA/HRA/PF etc. are highly prejudicial to the interest of the employees and adversely affected their pay package as a whole.

8. The refusal on the part of the management to consider the stagnation increment as part and parcel of the basic pay is an act of unfair labour practice and an act of victimization. Being a public sector undertaking the management is expected to be fair and reasonable in all matters concerning the employees. In this case the employees are exploited by the management. The stand adopted by the management is without any justifiable reason and it is unwarranted. They are bound to follow the guidelines of DPE and the binding precedents in the matter of calculating the stagnation increment.

9. Therefore the unions have requested to pass an award holding that their demand in treating stagnation increment as part of basic pay for the purpose of computation of DA, HRA, PF etc. is justifiable and to direct the management to grant consequential benefits to all the affected workmen with arrears and interests thereon.

10. The contentions in the written statement filed by the management in brief are as follows:-

They have denied all the averments in the claim statement except those that are specifically admitted. The Instrumentation Limited is a Government of India undertaking, incorporated as a company under the Companies Act, 1956, with its registered office at Kota in Rajasthan. It has got two units one at the registered office at Kota and other at Palakkad in Kerala. The management as per this reference is the unit at Palakkad.

11. The Instrumentation Limited, Palakkad unit is engaged in the business of manufacture and sale of control valves of different sizes and specifications for industrial applications. The unit at Palakkad is having 168 workers, 190 supervisors and officers on its rolls. The service conditions of the workers and the officers are governed by the guidelines issued by the corporate office. The unit at Palakkad has got its own certified standing orders. The wage/pay revision to the employees of the unit at Palakkad is effected under separate agreement in line with the agreement entered into between the unions and the management at Kota in Rajasthan. The bonus as per the payment of Bonus Act, 1965 is paid annually on the basis of the profits earned by the company as a whole.

12. The wages/pay of the employees in the unit at Palakkad was revised last in 1997 with prospective effect from 23.02.2009. The wage revision of workers were in line with the agreement entered into between the unions and the management at Kota in Rajasthan and that of the supervisors and officers is governed by the guidelines issued by the Government of India as applicable by the pay revision orders issued from time to time. Clause 3.2 in the conciliation agreement dated 03.08.2009 entered into between the unions and the management at the Palakkad unit of Instrumentation Limited specified the procedure for payment of stagnation increment. Clause 3.2 of the agreement reads as follows:-

“3.2 STAGNATION INCREMENT

That if the basic pay of an employee reaches the maximum of the pay scale, he will be eligible for grant of upto a maximum of three stagnation increments after one year of stagnation.”

13. As per the stipulations in the agreement, stagnation increment was granted in accordance with the following criteria:

(i) *Stagnation increment is considered after one year after attaining stagnation ie. Maximum of the relevant grade in which the employee is drawing his annual increment.*

(ii) *Stagnation increment is granted maximum 3 increments only.*

(iii) *Stagnation increment is not considered for ancillary benefits like P.F., DA, HRA etc. and is paid under separate head in pay-slip.*

(iv) *On promotion stagnation increment is not taken into account for arriving the new basic pay in the promoted scale instead only one notional increment is added to fix the new basic pay in the promoted scale.*

14. The union requested clarification from the Ministry of Heavy Industries and Public Enterprises regarding the reckoning of stagnation increment for payment of ancillary benefits such as DA, HRA, PF etc. The Bureau of Public Enterprises (BPE) by letter dated 27.10.2010 stated that stagnation increment has to be reckoned for payment of ancillary benefits like DA, HRA, PF etc. The clarification letter by the BPE dated 27.10.2010 is not applicable to the facts of this case for the reason that it relates to the 2007 pay revision which has not been implemented by the management so far. The BPE letter dated 27.10.2010 is not relevant for all cases and it is not uniform in its application. The Corporate Office at Kota, Rajasthan, after referring to the earlier order issued by the BPE has clarified as per letter dated 13.12.2012 that the management is giving stagnation increment every year after stagnation with no other benefits.

15. The contention of the union that considerable time is taken for wage revision settlement which resulted in stagnation necessitating the grant of increments and the amount granted as increment was specified separately in the wage slip denying the lawful benefit due to the employees are misconceived and without any merit. The stagnation was not on account of the time taken for finalizing the wage revision settlement. The pay of each employee consequent to the pay revision was fixed from 01.01.1997 and the revision was implemented from 23.02.2009 only. Even though the pay was revised w.e.f.01.01.1997, the payment of arrears consequent to revision does not arise for the reason that it was implemented with prospective effect from 23.02.2009. The stagnation increment is given as a relief to those who attained the maximum of their pay scale and that there is no provision for further annual increment. The relevant provision in the agreement will substantiate this factual aspect. The stagnation increment is paid in accordance with the provisions in the agreement and as per the guidelines issued by the corporate office at Kota, Rajasthan. Therefore the contention of the unions that the management is denying the benefits legally due to the employees is false and incorrect.

16. The contention of the unions that as per the practice followed, stagnation increment is to be reckoned for computation of DA, HRA, PF etc., including pay on promotion, is not sustainable in law. The stagnation increment was included for the first time in 1997 pay revision agreement and that there was no such practice followed in the past in the unit at Palakkad. Formerly the employees were not entitled to get any annual increase in their basic pay once they reach the maximum of their respective pay scale. To mitigate their hardship on account of this, a provision for payment of maximum stagnation increment was introduced for the first time in the pay revision settlement in 1997. Stagnation was not on account of the delay in effecting wage revision as alleged by the unions. It is a benefit given exclusively for those employees who reach the maximum in their pay scale and for whom there is no further scope for getting annual increments. The contention of the unions that 79 employees were stagnated and lost the benefit of timely wage revision, is false and incorrect. So also the contention that the workmen are losing the benefit of stagnation increment for the purpose of computation of DA, HRA, PF and their terminal benefits such as provident fund, gratuity etc., are false and incorrect. The said contention of the union is against the terms and conditions of the agreement relating to payment of stagnation increment. As on date only 18 employees are being given the benefit of stagnation increment. The statement to the contrary, made by the unions is incorrect. The contention of the union that the employees who are stagnated are losing the benefit of wage revision, is false and incorrect. Once the employee gets promotion to the next pay scale the stagnation will not be there from the date of such promotion. The object and purpose of payment of stagnation increment will reveal that the contention in the claim statement by the unions is without any merit. The stagnation increment is a distinct and separate payment and it will not form part of basic pay and hence not reckoned for computation of DA, HRA, PF etc.

17. The contention of the unions that the refusal on the part of the management to consider stagnation increment as part and parcel of the basic pay is an act of unfair labour practice and act of victimization and that the management is exploiting the employees, etc are false and without any merit. The management has acted only in accordance with the terms and conditions in the agreement relating to payment of stagnation increments and as per the guidelines issued by the corporate office in this regard.

18. The stagnation increment is a separate and distinct temporary payment only for a short period till the concerned person gets elevated to the next pay scale on promotion and the same do not form part of basic wages and consequently it cannot be reckoned for computation of DA, HRA, PF etc. as claimed by the union.

19. After filing written statement by the management the unions filed rejoinder reiterating the contentions in the claim statement. They are adhering to the claim put forward in the claim statement.

20. As per the order in IA No.10/2016 dated 07.01.2016; additional written statement filed by the management is received. The contentions in the additional written statement filed by the management in brief are as follows:-

The Board of Directors of Instrumentation Ltd. have resolved to refer the company to the Board for Industrial Finance and Reconstruction (BIFR) under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985. The BIFR has declared the company as a "Sick company" and finalized the draft scheme for revival of the sick company. Proceedings relating to the same are pending consideration before the BIFR.

21. The Union Minister for Heavy Industries & Public Enterprises requested the Chief Minister of Kerala to consider the takeover of the unit at Palakkad by the State Government. Pursuant to which a meeting was convened on 14.12.2015. The management is granting benefits such as long service reward, additional qualification allowance, family planning incentive equivalent to increment to its employees. The management has requested to uphold their contentions and pass an award to that effect.

22. After filing additional written statement by the management opportunity was afforded to the unions to file additional claim statement/replication. They have not filed any additional claim statement/ replication.

23. After affording reasonable opportunity to the parties to take steps and produce documents, the matter was posted for evidence. On behalf of the unions WW1 was examined and Exts.W1 to W10 are the documents marked. On behalf of the management MW1 was examined and Exts.M1 to M16 are the documents marked. Heard both sides.

24. The points arising for consideration are:

“(i) *Whether the demand of the unions for treating stagnation increment as part of basic pay for the purpose of calculation of DA, HRA, PF etc. is sustainable and justified as per the terms and conditions of the agreement/settlement?*

(ii) *If the claim of the unions is justified, what relief they are entitled?”*

25. Point No.(i):- The management in this reference is the General Manager, Instrumentation Limited Kanjikode West, Palakkad. The Instrumentation Limited is a Government of India undertaking, incorporated as a company under the Companies Act, 1956. The registered office of the company is situated at Kota in Rajasthan. The company has two units, one the registered office at Kota in Rajasthan and the other at Kanjikode West in Palakkad, Kerala. The unit at Palakkad is engaged in the manufacture and sale of control valves of different sizes and specifications for industrial applications.

26. The unions have stated that right from the beginning the unit at Palakkad was a profit making venture and for all practical purposes and intent the Instrumentation Limited, Kanjikode, Palakkad is a separate unit and it has its own certified standing orders. The unions have stated that the wage revision, bonus and other matters relating to the service conditions of the employees are in accordance with the terms and conditions in the agreements/ settlements arrived at by the local management and the respective unions on issue basis. It is stated that the last wage revision due for the year 1997 was given effect and implemented in February 2009, after a lapse of twelve years. Due to the long delay in implementing wage revision settlement, there were instances of stagnation in getting increments in cases where the employees have reached the highest point in the pay scale provided in the agreement. It is stated that in several cases where the increment has been granted, the amount of increment were specified separately in the wage slip and thereby denying the lawful benefit due to the employees. According to the unions as per the practice followed, stagnation increment is to be taken into consideration for computation of DA, HRA, PF etc. including pay on promotion/pay revision. It is stated that the terminal benefits such as Provident Fund, pension and gratuity payable to the employees will be affected by the unreasonable stand on the part of the management. The unions have stated that the refusal on the part of the management to reckon stagnation increment as part and parcel of the basic pay is an act of unfair labour practice and an act of victimization. Therefore the unions have requested to uphold their demand as justifiable and to treat the stagnation increment as part of the basic pay for the purpose of computation of DA, HRA, PF etc. and to direct the management to grant consequential benefits to all the affected workmen with arrears and interest thereon.

27. The management has stated that the wages/pay of the employees in the unit at Palakkad was revised last in 1997 with prospective effect from 23.02.2009. Clause 3.2 of the agreement relates to the stagnation increment. As per the stipulations in the agreement, stagnation increment was granted in accordance with the following criteria:

- “(i) Stagnation increment is considered after one year after attaining stagnation ie. Maximum of the relevant grade in which the employee is drawing his annual increment
- (ii) Stagnation increment is granted maximum 3 increments only
- (iii) Stagnation increment is not considered for ancillary benefits like P.F., DA, HRA etc. and is paid under separate head in pay-slip
- (iv) On promotion stagnation increment is not taken into account for arriving the new basic pay in the promoted scale instead only one notional increment is added to fix the new basic pay in the promoted scale.”

28. The management has stated that the clarification letter dated 27.10.2010 issued by the Bureau of Public Enterprises is not applicable to the facts of this case for the reason that it relates to the 2007 pay revision, which has not been implemented by the management so far. The contention of the unions that the management is denying the benefits legally due to the employees is denied by the management. According to the management the contention/claim of the union is against the terms and conditions in the agreement relating to payment of stagnation increment. The management has stated that they have acted only in accordance with the terms and conditions in the agreement relating to payment of stagnation increments and as per the guidelines issued by the corporate office in this regard.

29. Ext.W1 is copy of the memorandum of settlement dated 26.06.1999 entered into between the management and the unions. Ext.W3 is copy of the memorandum of settlement dated 03.08.2009 entered into between the management and the unions. As per clause 1.1 of Ext.W3, the pay revision will be effective for a period of ten years w.e.f.01.01.1997 i.e., upto 31.12.2006 and thereafter will continue to be in force till the next pay revision takes place. Clause 1.2 provides that the arrears will be paid from 23.02.2009 along with the salary of June, 2009. Clause 3.2 in Ext.W3 relates to stagnation increments. As per that clause the employee will be eligible for grant of upto a maximum of three stagnation increments after one year of stagnation. Clause 14 of Ext.W3 document stipulates that the arrears against pay revision, including all fringe benefits, effective from 01.01.1997 to 22.02.2009 shall be discussed and decided between the management and unions separately.

30. While examined as WW1, the General Secretary of the second union has stated that the salary and service conditions of the workman are disbursed/decided in accordance with the terms and conditions of the settlement entered into between the management and the unions. WW1 has stated that in Ext.W3 settlement there is mention regarding the stagnation increment and as per that clause it is not stated that the stagnation increment shall form part of basic pay.

31. MW1 is the Deputy Manager(HR) of the management. MW1 has stated that the benefits as per Ext.M1 (Ext.W3) document was given with prospective effect from 23.02.2009. He has further stated that the employees are getting emoluments as per the wage structure in accordance with the terms and conditions in the Settlement Ext.M1 (Ext.W3). Exts.M6 and M7 documents reveal that proceedings are pending before the BIFR; for revival and rehabilitation of Instrumentation Limited. The other documents produced by the management i.e., Exts.M8 to M11 reveal that discussions are held to consider the taking over of the Instrumentation Limited, Palakkad unit by the State Government.

32. On going through Ext.M1 (i.e., Ext.W3) and the evidence tendered by WW1 on the one hand and MW1 on the other it can be seen that there is no specific provision in the memorandum of settlement entered into between the parties for treating the stagnation increment as part of the basic pay for the purpose of calculation of DA, HRA, PF etc. Clause 14 in Ext.W1 Memorandum of Settlement is to the effect that the arrears against the pay revision, including all fringe benefits, effective from 01.01.1997 to 22.02.2009 shall be discussed and decided between the management and the unions separately. Till such a discussion and decision thereof enabling the employees to claim all fringe benefits for the period from 01.01.1997 to 22.02.2009 is arrived at between the management and the unions, the present claim by the unions is not justifiable. Therefore the claim of the unions for treating stagnation increment as part of basic pay for reckoning DA, HRA, PF etc. is not sustainable. It follows that the unions are not entitled to the relief claimed as per this reference. Hence the point for consideration is answered against the unions.

33. Point No.(ii):- In view of the finding on Point No.(i) the unions are not entitled to the relief claimed by them. The point is answered accordingly.

34. In the result an award is passed holding that the unions are not entitled to the relief as per this reference.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 30th day of September, 2016.

SASIDHARAN K. Presiding Officer

APPENDIX

Witness for the unions

WW1	22.01.2015	Shri. K. Unnikrishnan
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Witness for the management

MW1	07.01.2016	Shri. T. Radhamohan
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Exhibits for the unions

- | | | |
|----|---|--|
| W1 | - | True copy of the Memorandum Of Settlement dated 26.06.1999 entered into between the representatives of the management and unions. |
| W2 | - | True copy the letter No.ILP/ADMN/II-21/2008-09 dated 28.06.2008 issued by the Sr. Personnel Officer, Instrumentation Limited (P & A Division), Palakkad. |
| W3 | - | True copy of the Memorandum Of Settlement dated 03.08.2009 between the representatives of the management of Instrumentation Limited, Palakkad and unions during the conciliation before the Conciliation Officer-cum-District Labour Officer, Palakkad. |
| W4 | - | True copy of the circular letter No.IL/CPD-I/135/P&R/2009-10 dated 13.10.2009 issued by the Additional General Manager(CHQ), Instrumentation Limited, CPD(Policy & Rules Section), Kota. |
| W5 | - | True copy of the minutes of discussion held on 02.04.2011 between ILP management and the representatives of the unions before the Regional Labour Commissioner(C). |
| W6 | - | True copy of the Balance Sheet as at 31.03.2012 of Instrumentation Limited, Palakkad for the year 2011-2012. |
| W7 | - | True copy of the Balance Sheet as at 31.03.2013 of Instrumentation Limited, Palakkad for the year 2012-2013. |
| W8 | - | True copy the letter No.ILP/P&A/RTI/2013 dated 09.10.2013 issued by the Manager(Comml) & Assistant Public Information Officer, Instrumentation Limited, Kanjikode West, Palakkad to Shri R. Vinod Kumar, General Secretary, Instrumentation Workers Union(CITU), Kanjikode West, Palakkad. |
| W9 | - | Long Term Settlement for the period from 01.08.1998 to 31.07.2008 in respect of Kochi Refineries Limited, Ambalamughal. |

- W10 - True copy of DPE OM No.2(43)/93-DPE(WC) dated 15.03.1994 on Wage Policies & Related Matters – Chapter IV

Exhibits for the management

- M1 - True copy of the Memorandum Of Settlement dated 03.08.2009 between the representatives of the management of Instrumentation Limited, Palakkad and unions during the conciliation before the Conciliation Officer-cum-District Labour Officer, Palakkad .
- M2 - True copy of the Note No.ILP/ADMN/SI/2009-10 dated 13.10.2009 issued by the Sr. Personnel Officer (P&A Division), Instrumentation Limited, Palakkad to the AGM(P&A) & Manager(F&A).
- M2(a) - True copy of the Note No.ILP/ADMN/SI/2010-11 dated 20.10.2010 issued by the Sr. Personnel Officer (P&A Division), Instrumentation Limited, Palakkad to the AGM(P&A) & Manager(F&A).
- M2(b) - True copy of the Note No.ILP/ADMN/SI/2010-11 dated 11.10.2011 issued by the Dy. Manager(P&A) (P & A Division), Instrumentation Limited, Palakkad to the AGM(P&A) & Manager(F&A).
- M2(c) - True copy of the Note No.ILP/ADMN/SI/2012-13 dated 17.10.2012 issued by the Dy. Manager(P&A), (P & A Division), Instrumentation Limited, Palakkad to the AGM(P&A) & Manager(F&A).
- M2(d) - True copy of the Note No.ILP/ADMN/SI/2013-14 dated 21.10.2013 issued by the Sr. Officer(P&A), (P&A Division), Instrumentation Limited, Palakkad to the Dy. Manager(P&A) & Manager(F&A).
- M3 - True copy of the Note No.IL/CPD-I/47/P&R/2010-11 dated 11.02.2011 issued by the AGM(CHQ), Instrumentation Limited, CPD(Policy & Rules Section), Kota to the GM(PU)/AGM(P&A)-PU
- M4 - True copy of the Note No.IL/CPD-I/47/P&R/2011-12 dated 28.04.2011 issued by the AGM(CHQ), Instrumentation Limited, CPD(Policy & Rules Section), Kota to the D(P)/D(F)/CMD
- M5 - True copy of DPE Guidelines (O.M. No.2(49)/98-DPE(WC) dated 25.06.99)
- M6 - True copy of the Note No.IL/CPD-I/47/P&R/2011-12 dated 28.04.2011 issued by the Director, Ministry of Heavy Industry & Public Enterprises, Department of Heavy Industry, PE-VIII Section, Government of India, Udyog Bhavan, New Delhi.
- M7 - True copy of the Proceedings dated 02.01.2015 before the Board for Industrial & Financial Reconstruction, Jawahar Vyapar Bhavan, Tolstoy Marg, New Delhi.
- M8 - True copy of the D. O. letter No.6-1/2014-PE-VIII-115F dated NIL addressed to Shri Oommen Chandy, Hon'ble Chief Minister, Government of Kerala, Secretariat, Thiruvananthapuram by the Hon'ble Minister of Heavy Industries & Public Enterprises, Government of India.
- M9 - True copy of the letter No.27349/J1/2015/ID dated 09.12.2015 issued by the Additional Secretary for Principal Secretary to Government, Industries(J) Department, Government of Kerala, Thiruvananthapuram.
- M10 - True copy of the letter No.27349/J1/2015/ID dated 19.12.2015 issued by the Additional Secretary for Principal Secretary to Government, Industries(J) Department, Government of Kerala, Thiruvananthapuram.
- M11 - True copy of the Minutes of the Meeting held on 14.12.2015 relating to Instrumentation Ltd., Palakkad.
- M12 - True copy of the Circular letter No.IL/CPD-I/115/82-83/52 dated 27.11.1982 issued by the Deputy General Manager(P&A), Corporate Personnel Department, Genl. Admn., Policy & Rules Section, Instrumentation Limited, Kota.
- M13 - True copy of the Circular letter No.IL/CPD-I/125/P&IR/88-89/68 dated 14.03.1989 issued by the General Manager(CHQ), Corporate Personnel Department, Instrumentation Limited, Kota.
- M14 - True copy of the Circular letter No.IL/CPD-I/76/80-81/22 dated 10.07.1980 issued by the Deputy General Manager(P&A), Corporate Personnel Department, Instrumentation Limited, Kota.
- M15 - True copy of the Note No.IL/CPD-I/47/P&R/2011-12 dated 13.12.2012 issued by the DGM(CHQ), Instrumentation Limited, CPD(Policy & Rules Section), Kota to the GM(PU).
- M16 - True copy of the administration Circular No.15/2001 dated 26.02.2001 issued by the Deputy General Manager(P & A), ITI Limited, Kanjikode West, Palakkad.

नई दिल्ली, 2 मार्च, 2017

का.आ. 631.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स अलगप्पा टेक्सटाइल्स (कोचीन) मिल्स थ्रिस्सुर डायरेक्टर, एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्णाकुलम के पंचाट (संदर्भ संख्या 29/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 631.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 29/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Eranakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Alagappa Textiles (Cochin) Mills, Thrissur, and their workman, which was received by Central Government on 14.12.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri. K. Sasidharan, B.Sc., LLB, Presiding Officer

(Wednesday the 18th day of January, 2017/28th Pausha, 1938)

ID 29/2011

Workman : Shri. Sukumaran. K. S.,
Ticket No.2003,
S/o Sankaran,
Kannamkulangara House,
Alagappa Nagar,
Thrissur – 680 302.

By Advs. Shri. Jolly John &
Shri. C. B. Mukundan

Management : M/s.Alagappa Textiles (Cochin) Mills,
A unit of National Textiles Corporation,
(A Government of India Undertaking),
Alagappa Nagar,
Thrissur District – 680 302.

By Advs. Shri P. Ramakrishnan &
Shri. C. Anil Kumar

This case coming up for final hearing on 27.12.2016 and this Tribunal-cum-Labour Court on 18.01.2017 passed the following:

AWARD

This is an application filed by the workman under Section 2A(2) of the Industrial Disputes Act, 1947, as amended by Act 24 of 2010.

2. The contentions in the application in brief are as follows:

The workman was appointed as a manual worker in the management establishment on 12.08.1978. Since then he was working under the management. He was insured with the ESI Corporation, his insurance number being

911702/A/N. In the year 2009 he had ailment in his right eye and underwent treatment at the ESI Hospital, Olarikkara, Thrissur. The ailment caused due to the handling of cotton while performing the duty as an employee under the management. It was an occupational disease. As a result of the ailment the workman could not attend duty regularly. From the ESI Hospital, Olarikkara he was referred before the Medical College Hospital, Mulamkunnathkavu, Thrissur on 07.09.2009 for better treatment. On 01.10.2009 single field analysis was done to the workman at the Government Medical College Hospital, Thrissur. From there he was referred to the Aswini Hospital Private Limited, Thrissur for handling the case by specialty/super specialty medical officer. He underwent surgery at the Aswini hospital on 14.07.2010. A special investigation certificate was issued by the Assistant Insurance Medical Officer, ESI Hospital, Olarikkara, Thrissur on 18.10.2010. As per that certificate the workman was referred to the Aswini Hospital for specialty care in Ophthalmology and for Anti Glaucoma surgery. Again he was admitted at the same hospital on 18.10.2010 for another surgery 'Trabeculectomy' for Pseudophakia since he had secondary glaucoma and he was discharged on the next day i.e., on 19.10.2010.

3. While the workman was undergoing treatment for ailment to his eye, the management served memos requiring him to submit explanation for his absence. Even though the workman intimated the management about his ailment through the union, the management disregarded the same and proceeded against the workman. The management ordered domestic enquiry and appointed an enquiry officer for conducting enquiry. The workman appeared before the enquiry officer and explained the details of his ailment by producing necessary documents. The enquiry officer failed to consider the documents produced with by the workman and submitted a report without considering his submissions. After receipt of the enquiry report the management issued a second show cause notice dated 12.02.2010 along with copy of the enquiry report. The workman submitted explanation dated 13.02.2010 intimating that his absence was due to his ailment and requested the management to allow him to continue employment. Considering his request the management as per notice No.5748/10 dated 13.02.2010 permitted the workman to continue employment under them. Even after that the workman could not attend duties regularly due to ailment in his right eye. Without considering his submissions and the factual state of affairs the management dismissed the workman as per order No.963/10 dated 07.06.2010.

4. The union representing the workman made a representation before the management seeking permission to allow the workman to continue employment. A letter to that effect dated 23.07.2010 was submitted before the management. The management issued a letter dated 26.07.2010 and intimated the workman about the postponement of the implementation of the dismissal order subject to certain conditions. As a result of the two major surgeries on 14.07.2010 and 18.10.2010 the workman could not comply the conditions in the order passed by the management. Without considering the request made by the workman, the management dismissed him from the service as per office order No.AL/2345/10 dated 17.09.2010 with effect from 07.06.2010.

5. The action of the management in terminating the services of the workman while he was undergoing treatment after the surgery, is illegal and unjust. Against the dismissal order the workman preferred a complaint dated 06.10.2010 before the Central Labour Commissioner, Ernakulam, who conciliated the matter and the dispute could not be resolved at his intervention.

6. The dismissal of the workman during the continuance of treatment is violative of Section 73 of the Employees Insurance Act, 1948. Therefore the workman has requested to set aside the dismissal order passed by the management, to direct them to reinstate him in service with continuity of service, arrears of pay and all other attendant benefits.

7. The averments in the written statement filed by the management in brief are as follows:-

The management has denied all the averments in the application except those that are specifically admitted. The application is not maintainable either in law or on facts. The workman was employed under the management. For his unauthorized absence from duty from 01.01.2009 to 31.05.2009, the management issued a show cause notice dated 16.06.2009 requiring him to submit explanation. During the aforesaid period there were 124 working days, out of which the workman reported for duty only for 33 days. He remained absent without leave or permission from the management for 91 days. The action of the workman is gross misconduct as per clause 17(ii) f of the standing orders applicable to the workmen. Again he remained absent without permission from duty. He did not submit any explanation to the two show cause notices. He continued to remain absent without submitting leave application or obtaining permission from the management. In such circumstance the management decided to conduct domestic enquiry against the workman. Shri. Jacob R. Pulikkottil, a practicing Advocate was appointed as the enquiry officer for conducting a domestic enquiry in relation to the charges levelled against the workman. The enquiry officer issued notice to the workman to appear before the enquiry. Altogether there were four sittings in the enquiry and the workman was present on all occasions. The workman did not cross examine the management witness. He submitted a statement before the enquiry. On his behalf two documents were marked by the enquiry officer. The report submitted by the enquiry officer is to the effect that the charges levelled against the workman were proved.

8. The management considered the enquiry proceedings, enquiry report and concurred with the finding of the enquiry officer. Copy of the same was provided to the workman requiring him to make his submissions if any against the report. A proposed punishment of dismissal from service as per clause 17(iii) of the standing orders was suggested

by the disciplinary authority. He submitted a reply dated 13.02.2010 pleading mercy. Considering his request the management decided to postpone the implementation of the proposed punishment and an opportunity was afforded to him to improve in his performance. In that order the management made it clear that the workman should attend duty at least for 22 days in the succeeding month. The management had reserved the right to implement the proposed punishment if the workman repeats the misconduct. Again the workman failed to report for duty. Therefore the management issued notice dismissing him from the service as per clause 17(i), (iii) of the standing orders.

9. Again the union representing the workman requested the management to reconsider the implementation of the punishment order. The union made assurance that the workman will attend duty without fail. Again the management took a lenient view and permitted the workman to join duty. Even after that the workman continued to remain absent from duty. Therefore the management finally issued order dated 07.09.2010 dismissing the workman from service w.e.f.07.06.2010 as per clause 17(i) (iii) of the standing orders.

10. The enquiry conducted against the workman was in accordance with the principles of natural justice and by affording fair and reasonable opportunity to him to substantiate his contentions. The management has reserved the right to adduce independent evidence to prove the charges levelled against the workman if it is found that the enquiry is vitiated on any of the grounds. The management has requested to uphold their contentions and disallow the claim of the workman.

11. After filing written statement by the management the workman filed rejoinder reiterating the contentions in the application under Section 2A(2).

12. As requested by the counsel for the management the validity of the domestic enquiry was considered as the preliminary point. As per the Preliminary Order dated 18.01.2016 it is held that the domestic enquiry conducted by the management is valid, just and proper. Thereafter the matter was posted for final hearing. Heard the counsel appearing for the workman and that of the management.

13. The points arising for consideration are:

- “(i) Whether the initiation of disciplinary proceedings against the workman by the management is just, legal and proper?”**
- “(ii) Whether there is justifiability on the part of the workman in absents from duty without obtaining permission or leave from the management for the period mentioned in the charge sheet?”**
- “(iii) Whether the punishment imposed by the management is just or in proportion to the gravity of misconduct committed by the workman?”**
- “(iv) To what relief the workman is entitled?”**

14. Point Nos.(i) & (ii):- The workman involved in this matter Shri. Sukumaran. K. S was appointed as a manual worker under the management on 12.08.1978. The contention of the workman is that in the year 2009 he underwent treatment at the ESI Hospital, Olarikkara, Thrissur due to ailment in his right eye. According to the workman the ailment was due to the cotton dust entered in his eyes and hence it is an occupational disease. It is stated that from the ESI Hospital, Olarikkara, Thrissur, he was referred before the Government Medical College Hospital, Mulankunnathkavu, Thrissur on 07.09.2009. The workman has stated that on 01.10.2009 single field analysis was done. Subsequently on 09.06.2010 he was referred to Aswini Hospital, Thrissur for treatment. He has stated that from the Aswini hospital, Thrissur surgery was done on 14.07.2010. He would further state that as per the referral for specialty/super specialty/special investigation certificate dated 18.10.2010 issued by the Assistant Insurance Medical Officer, ESI Hospital, Olarikkara, he was referred to the Aswini Hospital, Thrissur for specialty care in Ophthalmology. He was admitted at the Aswini Hospital on 18.10.2010 and underwent another surgery ‘Trabeculectomy’ for Pseudophakia and discharged on 19.10.2010.

15. The workman has stated that while he was undergoing treatment for ailment to his eye the management served memos one after the other directing to show cause for unauthorized absence. He received the second notice dated 12.02.2010 along with report of the domestic enquiry dated 19.11.2009. It is stated that the workman requested the management to allow him to continue employment. He has stated that due to ailment in his right eye he could not attend duty regularly.

16. It is seen from the case records that considering the request made by the workman the management as per notice No.5748/10 dated 13.02.2010 permitted the workman to continue employment with certain conditions. It is stated that the workman could not comply the conditions for regular attendance as directed by the management. Subsequently the management issued dismissal order No.963/10 dated 07.06.2010, dismissing him from service. Thereafter at the request of the union the management decided to postpone the implementation of the dismissal order on certain conditions – i.e., the workman should ensure to attend duty regularly at least for a minimum period in every

month. It is stated that the workman could not comply the conditions imposed by the management. Therefore as per letter No.AL/2345/ 10 dated 17.09.2010 the management ordered to implement the dismissal order w.e.f.07.06.2010. According to the workman he could not attend duty regularly for the reason that he was continuing treatment for the ailment in his right eye. He has stated that the punishment of dismissal from service, imposed by the management is unjust, illegal and highly disproportionate. He has requested to set aside the dismissal order on compassionate grounds.

17. The management has contended that the workman was regularly irregular in attending duties and on several occasions the management issued memos and directed him to be regular in attending duties. In relation to the matter involved in this case, the management has stated that the workman unauthorisedly absented from duty without obtaining permission or leave from the management for the period from 01.01.2009 to 31.05.2009. It is stated that during the aforesaid period there were altogether 124 working days and out of which he reported for duty only for 33 days and remained absent for 91 days. Therefore the management issued show cause notice and proceeded against him after conducting a domestic enquiry by appointing an enquiry officer. It is stated that the enquiry officer conducted the enquiry in a just, legal and proper manner affording fair and reasonable opportunity to the workman to substantiate his contentions. The management has stated that they forwarded copy of the enquiry report along with second show cause notice dated 12.02.2010. It is stated that the workman submitted a request to allow him to report for duty. He assured that he will continue to attend duty regularly. Considering his request the management allowed the workman to attend duty on condition that he will maintain a minimum attendance in future. It is stated that the workman again failed to report for duty without applying for leave or obtaining permission from the competent authority. Therefore the management imposed the punishment of dismissal from service without notice. The management has stated that the punishment imposed by them is just, proper and in proportion to the gravity of misconduct committed by the workman.

18. The learned counsel for the workman submitted that the workman was suffering from ailment in his right eye and he was undergoing treatment and hence could not report for duty before the management. The learned counsel submitted that the workman gave evidence before the enquiry officer and explained the reason why he could not report for duty regularly due to ailment. The learned counsel for the workman submitted written argument notes substantiating the plea of the workman. It is stated that as per Section 73 of the ESI Act the employer is not permitted to dismiss or punish the employee during the period of ailment. The learned counsel submitted that the punishment imposed by the management is excessive and disproportionate to the gravity of misconduct alleged to have been committed by the workman. The learned counsel referred to *the Rulings reported in (2006) 1 LLJ 329 SC – Life Insurance Corporation of India Vs. R. Dhandapani; (1994) 11 LLJ 888 SC – Kerala Solvent Extractions Limited Vs. A. Unnikrishnan and Another; (2005) 1 LLJ 1129 SC – Mahindra and Mahindra Limited Vs. N. B. Narawade; (1983) 11 LLJ 386 SC – Hindustan Machine Tools Limited Vs. Mohammed Usman; (1989) 1 LLJ 71 SC - Scooter India Limited, Lucknow Vs. Labour Court and others and Writ Appeal No.142/2008 – Federal Bank Employees Union Vs. Federal Bank Ltd. and Another*. The learned counsel submitted that in view of the dictum laid down in the decisions referred above this Tribunal is well within its right in evaluating the proportionality of the punishment imposed by the management. It is submitted that dismissal from service for the act of unauthorized absence that too on the ground of ailment in the right eye of the workman is highly disproportionate.

19. The learned counsel for the management submitted argument notes stating that the management considered the submission made by the workman and afforded several opportunity to the workman to correct his misdeed and to report for duty. It is stated that on several occasions, at the request of the union and at the request of the workman, the management postponed the implementation of the proposed punishment under certain conditions that the workman shall report for duty at least for a minimum period during the ensuing months. It is stated that the workman failed to comply the assurance and hence the management imposed the punishment of dismissal from service. According to the management the punishment imposed by them is just, proper and in proportion to the gravity of misconduct committed by the workman.

20. On going through the contentions of the workman and the documents produced in this case it can be seen that during the period of unauthorized absence for 91 days from 01.01.2009 to 31.05.2009, the workman has not produced any documents to prove that he was undergoing treatment for ailment in his right eye and thereby he could not attend duty. From the documents produced by the workman it can be seen that he was referred before the Government Medical College Hospital on 07.09.2009. Subsequently he was subjected to single field analysis on 01.10.2009. Thereafter he was referred to Aswini Hospital on 09.06.2010. The workman has not produced any documents to prove that for the period from 02.10.2009 to 08.06.2010 he was undergoing treatment. It can be seen that on 13.02.2010 the workman submitted a mercy plea with an assurance that he will report for duty regularly without fail. Considering his request the management allowed him to attend duty provided he should attend duty regularly. It is the case of the workman that due to ailment he could not attend duty regularly. On going through the contentions raised by the workman and documents produced in this case it is seen that the workman was regularly irregular in attending duty. If in fact the workman was undergoing treatment and thereby prevented from attending duty, nothing prevented him from submitting a leave application with necessary documents before the management requesting leave on medical grounds. There is no material on record to prove that the workman submitted any leave application or obtained permission from the management for not attending duty. From the conduct of the workman as revealed from the documents produced, it is evident that he was not attending duty regularly. Instead he remained absent from duty with

obtaining permission or submitting leave application before the management. The action of the workman amounts to gross misconduct as per the standing orders of the management.

21. The management initiated proceedings against the workman for unauthorized absence of 91 days for the period from 01.01.2009 to 31.05.2009. The workman has not produced any documents to prove that during the aforesaid period he was undergoing treatment for any ailment. In such circumstance it cannot be held that the management initiated proceedings against the workman without any just, legal and proper cause. Therefore it is held that the initiation of disciplinary proceedings and the imposition of punishment by the management are on the basis of valid and justifiable cause. Therefore Point nos.(i) and (ii) are answered against the workman and in favour of the management.

22. Point Nos.(iii) & (iv):- The proportionality of the punishment is to be considered in the light of the subsequent development in this case. Considering the fact that the workman underwent treatment after the issuance of the show cause notice and he had to undergo surgery in his right eye, it is held that the punishment of dismissal from service imposed by the management is disproportionate in relation to the gravity of misconduct committed by the workman. Since the workman was regularly irregular in attending duty there is no justification in allowing him to continue employment under the management. Considering the facts and circumstances of the case it is held that the ends of justice will be met by modifying 'the punishment of dismissal from service' into 'compulsory retirement with superannuation benefits'. Point Nos.(iii) & (iv) are answered accordingly.

23. In the result an award is passed holding that the punishment of dismissal from service imposed by the management is disproportionate. The workman shall be compulsorily retired from service with effect from the last date he attended for duty and that he shall be entitled to superannuation benefits till that date.

The Award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 18th day of January, 2017.

K. SASIDHARAN, Presiding Officer

APPENDIX

Witness for the workman

NIL

Witness for the management

MW1 08.12.2014

Shri. Jacob. R. Pulikottil

Exhibit for the workman

NIL

Exhibit for the management

M1 - Enquiry File.

नई दिल्ली, 2 मार्च, 2017

का.आ. 632.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डारेक्टर, आल इंडिया इंस्टीट्यूट ऑफ फिजिकल मेडिसिन एंड रिहैबिलिटेशन मुंबई एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नंबर-2, मुंबई के पंचाट (संदर्भ संख्या 2/22 ऑफ 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.01.2017 को प्राप्त हुआ था।

[सं. एल-42012/182/1999-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 632.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 2/22 of 2000) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, All India Physical Medicine and Rehabilitation Mumbai, and their workman, which was received by Central Government on 17.01.2017.

[No. L-42012/182/1999-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI****PRESENT : M.V. DESHPANDE, Presiding Officer****REFERENCE No. CGIT-2/22 of 2000****EMPLOYERS IN RELATION TO THE MANAGEMENT OF ALL INDIA INSTITUTE OF PHYSICAL MEDICINE AND REHABILITATION**

The Director
 All India Institute of Physical Medicine and Rehabilitation
 Haji Ali Park
 K. Khadye Marg
 Mahalaxmi
 Mumbai 400 034.

AND**THEIR WORKMAN**

Shri Mohan Pandurang Gore
 3/347, Jan Kalyan Society
 New Model Talkies
 CST Road, Kurla (W)
 Mumbai 400 070.

APPEARANCES:

FOR THE EMPLOYER : Mr. Vinod Joshi, Advocate.
 FOR THE WORKMAN : Mr. M.B. Anchan, Advocate.

Mumbai, dated the 25th November, 2016**AWARD**

1. The Government of India, Ministry of Labour & Employment by its Order No.L-42012/182/99-IR (DU) dated 27/01/2000 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of All India Institute of Physical Medicine and Rehabilitation, Mumbai by terminating the services of the workman Mr. Mohan P. Gore w.e.f 29/11/1997 is legal and justified? If not, to what relief the workman is entitled to?”

2. After receipt of the Reference notices were issued to both the parties. Concerned second party workman files Statement of Claim at Ex-7, contending therein that he was employed with the first party a semiskilled worker. He has put in more than 5 years’ service w.e.f. August 1994 to 30.11.98. His past record is very clean and unblemished. The last drawn wages were Rs. 3977/- per month.

3. According to the second party workman he was never made permanent as such even though he had completed as long period as five years. He was given the break for more than 26 times during the above period. The breaks were artificial. As soon as the workman was given the breaks at that time the employer used to take another workman in his place. There was the permanent vacancy, still he was given the breaks as many as 29 times during this period.

4. According to second party workman he is working upto the satisfaction of the management. As such no any reason is given why he was not permitted to continue the work. Action taken by management in not allowing him to work is not legal and against the provision of I.D.Act 1947. Termination effected is not according to law. The management has not followed due process of law as required. His termination of services is therefore illegal void-ab-

initio and void. He therefore is deemed to continue in service and entitled to full back wages. So, aggrieved by the decision of the management the workman raised the dispute before ALC(C) but there also the management did not give proper co-operation. Finally Dy Commissioner closed the matter vide letter dt. 31/8/1999 and have referred the dispute to RLC. However the conciliation finally failed on 31/8/1999. It is prayed that the first party be directed to reinstate the second party workman with full back wages and continuity of service and other reliefs.

5. First party management resisted the claim by filing Written Statement Ex-22. It is contended that All India Institute of Physical medicine and Rehabilitation (hereinafter referred to as "institute") is a department under the Ministry of Health and Family Welfare and its activities include rehabilitation for the Physically handicapped. It is submitted that this Tribunal has no jurisdiction to try and entertain this Reference.

6. The management contended that the institute is subordinate Office to Director General of Health Services, Government of India, a Public Utility Service Organization under Ministry of Health and Family welfare, the financial resources to the institute are from consolidate fund of Government of India and all employees of the Institute are governed by CCS Rules. The institute provides some of other things comprehensive rehabilitation programme for the physically handicapped patients through its various departments under one roof. Applicant was offered appointment on the post of semiskilled on pay of Rs 775/- p.m. on date 21/8/1995. The said appointment was liable to be terminated at any time without notice. The second party workman accepted the said offer of appointment vide his letter dated 21/8/1995 and based upon acceptance of terms of conditions of offer of appointment he came to be appointed as a semiskilled worker on ad-hoc basis for the period from 24/8/1995 to February 1996. Thereafter he was appointed from time to time on ad-hoc basis taking into consideration the workload at the Institute for smooth functioning of its prosthetic and orthopedic department. Since he was appointed on ad-hoc basis his services were terminated and therefore there is no question of granting any reinstatement with back wages etc.

7. First party management then contended that the Department of personnel, Public Grievances and pension has issued instructions on optimization of direct requirement to civilian posts. Vacancies finally cleared by the screening committees will be filled up duly applying the rules for reservation, handicapped compassionate quotas thereon. Further, administrative ministries/departments/ units would obtain beforehand a no objection certificate from the surplus cell of the department of personnel and training/director General, Employment and training that suitable personnel are not available for appointment against the posts meant for direct recruitment to recruiting agencies. As such the instructions have been imposed on ad-hoc appointment. Even Mr. M.P. Gore did not work for 240 days in any of the proceeding years. Since the appointment of second party was for a limited period. It will not give any right of regularization. Even as per CCS Rule there is no question of payment of one month salary for terminating the service of party 2. It is therefore prayed that the Reference be dismissed.

8. Following issues are framed for my determination. I record my findings thereon for the reasons to follow:

Sr No.	Issues	Findings
1	Whether the management institute proves that it is not an industry under section 2j of the I. D. Act and therefore the Tribunal has no jurisdiction?	No
2	Whether the workman proves that he worked continuously more than 240 days?	Yes
3	Whether it is proved that workman was terminated without following the provisions of the I.D. Act?	Yes
4	Whether the action of the management of All India Institute of Physical Medicine and Rehabilitation, Mumbai by terminating the services of the workman Mr. Mohan P. Gore w.e.f. 29/11/97 is legal and justifies?	No
5	What relief the workman is entitled to?	As per order

REASONS

Issue No 1.

9. This issue was treated as Preliminary Issue as per order dated 18/5/2006. As per the order passed by this Tribunal on the point of this issue, party no 1 is an 'industry' and therefore the Tribunal has jurisdiction to entertain the Reference. This order of this Tribunal was challenged by the first party before the High Court vide W.P. No. 1309/2007. The said W.P. is dismissed. As per the observations of Hon'ble High court the dispute before the Tribunal is concerning termination of respondent's service in the year 1998. It is therefore appropriate to endeavour to dispose of the Reference on merits.

10. Ld. Counsel for the first party management submitted that the High Court in this writ petition has observed in Para 11 of judgment as follows:

“Learned Counsel for the petitioner however submitted that the issue of very applicability of the Industrial Disputes Act, 1947 to employees whose service conditions are governed by the proviso to Article 309 of the Constitution of India, is pending consideration before the Supreme Court in Umesh K Bhandari vs. Mahanagar Telephone Nigam Ltd & Ors 2005 (6) SCC 451, in such circumstances, Ld. counsel submits that liberty be reserved in favour of the Union of India to raise such issue, if ultimately the Tribunal holds against the Union of India, in the present matter. Such request is reasonable and accordingly liberty in this regard is expressly reserved”.

11. In the context the Ld Counsel for the first party management seeks to rely on the decision in case of **MTNL V/s Umesh K. Bhandari 2001 (3) CPMH51** to submit that the employee holding civil post as per the rules namely recruitment and condition of service Rules, 1980 were not workman within the meaning of 2 s of I D Act 1947 and Industrial Tribunal have no jurisdiction to adjudicate the Reference under section 10 1(d) Act.

12. In that case it was finding of fact that the employees appointed by the departmental canteen committee at Prabha Devi telephone exchange have been in services for many years and they were declared as holders of civil post under the Government of India notification no 6(2) / 23/77 welfare dated December, 1979, to the administrative instructions that notification stated that all said post are to be treated as posts in connection with the affairs of the union, and accordingly present and future incumbents of such post would qualify as holders of civil post under the central government. Notification further stated that necessary rules governing the conditions of service of the employees would be framed under proviso to Article 309 of the constitution to have retrospective effect from October 1, 1979. Accordingly the service rules were framed under Article 309 as per notification no GSR 54 issued by the Government of India Department of Personnel and training on December 23, 1980. These rules contained both the recruitment rules and conditions of service of the said employees including the procedure for disciplinary action to be taken against them. The administrative instructions are run by all the ministries including the railway ministry unless they have previously decided to be exempt from them and had framed their own rules in that behalf. Notifications which were issued by the Government dated December 11, 1979 and December 23, 1980 were applicable to the employees of the railway canteens and hence, the employees in the statutory and non statutory recognized canteens will have to be treated as railways servants. In the circumstances it is held that these employees are civil servants regulated by these conduct rules. Therefore by necessary implications, they do not belong to the category of workmen attracting the provisions of the Act.

13. In the instant case, so far the facts are concerned the Institute is not registered under the Societies Registration Act, 1960 as stated by the second party workman. It runs number of courses and taking fees from the candidate as mentioned in “annual Report” submitted by the first party. Even in the booklet, it is stated that Institutes are run by the first party which is of different levels, graduation level as well as post-graduation level. Fees are collected from the students and courses or education is given systematically with the help of number of staff members. Rules and regulations are there regarding appointments taking action of regularization of employees. There is carpentry department, Smith Department, Metal Department, Buffing Department. Institute is not doing only attending work of rehabilitation. It runs number of departments and other facilities as well as number of departments. There are rules and regulation and these activities are done in systematic manner and controlled by rules and regulation.

14. So far the facts of present case there is no specific notification showing that the employees are civil servant regulated by CCS Rules framed Under “Proviso 2” Article of 309 of Constitution of India. As such the facts of present case are quiet distinct and distinguishable.

15. Ld counsel for the first party management submitted that tribunal has passed Award in Ref no CGIT-2/ 58 of 1998 in respect of Aliyavar Jung institute for hearing handicapped Mumbai which is a similar institute and the Tribunal has ruled that the Aliyavar Jung National institute is not an industry within the meaning under Section 2 (j) of the Act. But then there is no material placed on record to establish that Aliyavar Jung institute is similar to ‘All Indian institutes of Physical Medicine and Rehabilitation.’ Even it can be said that the submission that the institute is not profit making institute and therefore is not the industry is not acceptable as per the observations of High Court in Para 7 WP. no1309 of 2007 with Reference to the judgment in case of **Bombay Pinjrapole vs their workmen 1971 (2) LLJ 393 (SC)** and in case of **Bangalore water supply and Sewerage Board Vs. Rajappa 1978 Lab IC 467 (SC)**.

16. As per observations in Para 8 of Judgment the Institution is a ‘hospital’ which provides medical facilities to physically challenged persons. Institute runs several courses at Graduate as well as post-graduate level for students, who are charged fees for the same. It is observed therefore with Reference to decision in **hospital Mazdoor Sabha v/s. State of Bombay- 1957 1 LLJ 55 (Bom) (DB)** that in the wider sense the expression ‘undertaking’ is used in the definition and it would cover activities which have no commercial implication, such as hospital carried on with philanthropic motives. The fact that the Government made no profit from the running of such activity was irrelevant to the case. Ultimately the Hon’ble High Court has dismissed the W.P. No 1309/2007. It can be said therefore that this Tribunal has jurisdiction to entertain the Reference. It is an ‘industry’ Issue no 1 answer in negative.

Issues Nos. 2 to 4

17. It is clear from the evidence of the workman and even from the cross-examination of the management witness Dr. Smt. N.L. Wangdi that the concerned workman joined the institute through employment exchange. He was given trade test on 11.8.91. He was given letter of appointment after interview on 22.2.95. Second appointment letter was given to him on 23.3.95 and on 13.5.95 again appointment letter was given to him. Period of employment was mentioned in all these letters on 8.5.95 another letter of appointment was given. Thereafter, on 4.7.95 he was given another appointment letter. Admittedly by letter dt. 2.8.95, he was called for further trade test. On 21.8.95 he was given the offer of appointment after trade test. On 13.9.95 he was given another appointment letter after trade test. All these appointments were on adhoc basis. Letters of appointment were given on 5.9.96, Oct. 96, Dec. 96, Jan. 97, March 97, April 97, June 97 and July 97. Letter of appointment was given on Aug. 97. It is thus, clear from the evidence of second party workman and evidence of management that as per office order dt. 22.2.95 he was appointed for the period from 14.2.95 to 10.3.95 and it was extended from 11.3.95 to 12.4.95 i.e. for 32 days vide office order dt. 22.3.95. Appointment was further extended vide order dt. 1.5.95 to 8.6.95 i.e. for 38 days. Date was extended from 1.7.95. He was again appointed for one year vide office order dt. 28.8.95 in the post as Jr. Food Worker. He was appointed in the said post from 24.8.95 to 29.2.96 vide office order dt. 30.9.95. Again he was appointed in the said post from 4.3.96 to 31.5.96 i.e. for 180 days vide office order dt. 13.5.96. He was again appointed in the said post from 3.9.96 to 30.8.96 i.e. for 89 days vide office order dt. 4.6.96. Again he was appointed in the said post from 2.9.96 to 15.10.96 i.e. for 44 days vide office order dt. 6.9.96. He was again appointed in the said post from 17.10.96 to 29.11.96 i.e. for 44 days vide office order dt. 4.11.96. He was appointed in the said post from 2.12.96 to 14.1.97 i.e. for 44 days vide office order dt. 4.2.96. Again he was appointed in the said post from 16.1.97 i.e. for 44 days vide office order dt. 18.1.97. He was again appointed in the said post from 3.3.97 to 15.4.97 i.e. for 44 days vide office order dt. 15.3.97. He was then appointed in the said post from 17.4.97 to 30.5.97 i.e. for 44 days vide office order dt. 2.5.97. He was again appointed in the said post from 2.6.97 to 15.7.97 i.e. for 44 days vide office order dt. 16.6.97. He was then appointed in the said post from 17.7.97 to 16.7.98 vide office order dt. August 97. It is thus, clear from these orders that he has worked All India Institute of Physical Medicine & Rehabilitation from 14.3.95 till 29.11.97 continuously with some artificial break in the services for 1 or 2 days. Not only that but he has given trade test on 11.8.91 and even thereafter before he was given the offer of appointment.

18. Learned Counsel for the management submitted that in the appointment letter itself it has been especially mentioned that appointment is on ad-hoc basis for the time being for the period which may be extended or curtailed at the discretion of the competent authority and after receipt of offer of appointment the Second party workman has accepted the terms of appointment and he was temporary appointed from time to time. According to Learned Counsel it cannot be said that the second party workman has worked continuously for 240 days.

19. It is not possible to countenance the view propounded by the learned advocate for the first party management. It appears that in each year second party workman has completed 240 days attendance. The breaks which were given of mostly of 1 or 2 days. Since it was an appointment on ad-hoc basis, it appears that these breaks were given which can be termed as artificial breaks but then subsequently the appointment orders came to be passed and his services were continued after giving short breaks of 1 or 2 days.

20. It is in that circumstances, it does not prescribe any distinction between those who have been appointed on regular selection process and those who have been appointed without calling due process of law. Industrial Dispute Act, 1947 is applicable to all these employees. These observations I borrow from the decision in the case of Municipal Board Lakheri, Bundi and Smt. Mangli Bai & Anr 2008 III LLJ 907. In para 3 of the judgment it has been observed that simply because the appointment of Respondent No.1 was not as per the rules that cannot be the ground for committee to the conclusion even the provisions of Industrial Disputes Act are not applicable. In the circumstances, when the second party workman has completed 240 days during the relevant period of his service then as per section 25 of Industrial Disputes Act it was necessary for the management to give retrenchment compensation before terminating his services. Admittedly in this case no inquiry was held and second party workman was not given one months notice or wages in lieu of such notice he was also not given retrenchment compensation and as such there is violation of section 25 - F of Industrial Disputes Act.

21. In the context Learned Counsel for the concerned second party workman seeks to rely on the decision in case of Orissa High Court reported in 2008 LAB IC 1268 wherein petitioner was appointed as cook on ad-hoc basis. He worked for 323 days during the preceding 12 months from the date of his termination with some artificial breaks. His services were terminated on expiry of 80 days on 3 occasions and on expiry of 44 days on 10 occasions. He was being appointed after some gap on completion of each term. It was held that the petitioner had worked for a continuous period of one year and his reinstatement is directed.

22. As a matter of fact, there are vacancies for the semi skilled workers in the department. The management has recruited the new workers after termination of services of second party workman. Staff working as Peons were appointed against his post. In his place one Shri Dapse who was peon was appointed. Management has also appointed Shri Ramesh Wagh as Semi-skilled worker. Management has also appointed one Shri Ramesh Kadam, Shri Mughdam, Shri Gharat, Shri Salunke, Shri Shinde, Shri Gura, Shri Yadav, Shri Maruti Kale, Shri Suresh Mane and Shri Choudhary

in the skilled category. One Shri P.B. Bhalerao, Shri M.C. Tolwarkar, Shri Sanjay Sutar, Shri Tanaji Awale, Shri N.S. Kawali, Shri S.A. Karande, Shri Gautam Wasmani were appointed as semi skilled workers. It is in that circumstances it appears that there was vacancy in the category of skilled and semi skilled workers and those vacancies were filled in.

23. As per section 25-H of Industrial Disputes Act wherein any workman is retrenched and employer proposes to take his employment any person he shall in such manner as may be prescribed, given opportunity to the retrenched workman who is citizen of India to offer himself for re-employment and he shall give offer for re-employment with preference over the other persons. In this case the services of second party workman were retrenched and thereafter the management has recruited other new hands in the category of skilled and semi-skilled workers. It appears that no offer was given to the concerned workman. He was told that there was no post for him. In view of these facts there is violation of section 25 – H of Industrial Disputes Act.

24. Realizing these difficulties Learned Counsel for management Shri Joshi submitted that the letter was given to the concerned workman from the department mentioning therein that when the vacancy would be created the order will be issued on ad-hoc basis but then the concerned workman has not submitted any application to the department. Submission is to the effect that the other workmen were reinstated since they have submitted application for reinstating and those workers were issued letters from employment exchange after they were terminated those workers were given call letter as per the availability of the vacancy and thereafter they were appointed as per Recruitment Rules. In this view, the submission is that the vacancies were filled in on temporary basis as per recruitment rules and therefore concerned workman cannot have claim on the said post as of right.

25. It is not possible to accept this submission since it appears that there is violation of section 25 – F, 25 – H of Industrial Disputes Act and as such the services of the second party workman are terminated without holding inquiry or without giving notice to him. His termination is illegal especially when he has completed 240 days of his service in each year and especially when there are other similarly placed employees, whose services have been regularized by the management.

26. In the circumstances, I hold that second party workman worked continuously for 240 days and his termination of service is illegal and without following provisions of Industrial Disputes Act. The above issues are therefore answered accordingly as indicated against each of them.

27. In the result the second party workman is entitled to reinstate with full back wages with continuity in service.

ORDER

- (i) Action of the management of All India Institute of Physical Medicine & Rehabilitation in terminating the services of Shri Mohan P. Gore is not just and proper.
- (ii) Management to reinstate the workman in service and pay him full back wages with continuity in service.

Date: 25.11.2016

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 633.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेशन डायरेक्टर, मद्रास एटॉमिक पावर स्टेशन कलपक्कम, एवं उनके कर्मचारी, के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 982014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.01.2017 को प्राप्त हुआ था।

[सं. एल-42011/88/2014-आई.आर. (डीयू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 633.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 98/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the Station Director, Madras Atomic Power Station Kalpakkam, and their workman, which was received by Central Government on 30.01.2017.

[No. L-42011/88/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI**Friday, the 13th January, 2017**Present :** K.P. PRASANNA KUMARI, Presiding OfficerIndustrial Dispute Nos. 98/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Madras Atomic Power Station and Another and their workmen)

BETWEEN :

The General Secretary : 1st Party/Petitioner Union
 Kalpakkam Atomic Energy Contract Workers &
 Labour Union
 150, School Street, Mulikolathur & Post
 Thirukazhukundram Taluk, Kancheepuram Distt.

Kanchipuram-603109**AND**

1. The Station Director : 2nd Party/1st Respondent
 Madras Atomic Power Station
 Kalpakkam-603102
2. The Special Officer : 2nd Party/2nd Respondent
 Kalpakkam Industrial Coop. Service Society
 Ltd. (KINCOSS), MAPS Campus

Kalpakkam-603102**Appearance:**

For the 1st Party/Petitioner Union : M/s N. Ajoy Khose, Advocates
 For the 2nd Party/1st Respondent : Sri V. Vijay Shankar, Advocate
 For the 2nd Party/2nd Respondent : Sri S. Makesh, Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/88/2014-IR (DU) dated 27.10.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of MAPS, Kalpakkam and KINCOSS regarding non-consideration of Charter of Demands raised by the representative of the Petitioner Union is justifiable or not? If not, to what relief the contract workers are entitled to?”

2. On receipt of the Industrial Dispute this Tribunal numbered it as ID 98/2014 and issued notices to both sides. Both sides entered appearance through their counsel and filed Claim and Counter Statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner is a Trade Union affiliated to CITU. The workmen concerned in the dispute are members of the petitioner Union. The Union is working for the cause and welfare of its members. The First Respondent is a unit of Nuclear Power Corporation. It has two atomic power generation units. Originally all the Atomic Power Stations and units were under the control of Department of Atomic Energy. In 1987 these were brought under the control of a newly formed Company by name Nuclear Power Corporation of India Ltd. When the nuclear plants were at the project stage, the First Respondent had employed casual labourers and they were absorbed and made permanent. Later they started employing workmen on HR payment. Though these workmen were directly and continuously employed in a permanent and perennial nature of work they were not made permanent. In order to deny permanent status and privileges available to permanent workers the First Respondent started the Second Respondent Society. Two officials of the First Respondent were nominated as Directors of the Board of the Second Respondent. Two other Directors were workmen representatives. 155 workmen were taken as members of the Second Respondent Society. Even after the formation of

the second Respondent, the very same work was carried out by these 155 workmen. Out of the 155 members a few were absorbed and some died or retired from service. Now only 54 workmen are remaining as members of the Society. All of them are members of the Petitioner Union. All these workmen are carrying out the very same work which they were doing prior to the formation of the Society. They are doing the same work which are now carried out by the 25 persons who were their colleagues and who were absorbed as Helpers. The 25 workmen who were absorbed are getting Rs. 25,000/- per month, apart from various other benefits. On the other hand, the concerned workmen are getting only Rs. 14,000/- to Rs. 15,000/- a month. This is contrary to the doctrine of equal pay for equal work. the concerned workmen are doing permanent and perennial work which are forming part of generation of electricity. The officials of the First Respondent control and supervise the work of these 54 workmen. At the time when the Second Respondent Society was formed and the 54 workmen were made members of the Society, notice under Section-9A of the ID Act was not issued though there was alteration in the conditions of service. All the 54 workmen shall be treated to be the direct employees of the First Respondent. The Society itself was formed only to avoid permanent status to the workmen concerned. The so-called contract system is a sham and nominal arrangement. The Society is not the real employer of the concerned workmen but only the First Respondent. The Society has no role in the allotment of work or control and supervision of the work of these workmen. Though the contract is shown as renewed from year to year, the workmen are doing the same work for more than 28 years, throughout the year. The work carried out by the concerned workmen are permanent and perennial in nature. The concerned workmen are given training by the First Respondent. The First Respondent arranged for study of ITI (Electrical and Fitter) trade courses by the workmen. The action of the Management in not absorbing the concerned workmen, 54 in number while absorbing 25 others as Helper A is discriminatory. The Petitioner Union had submitted a charter of demands claiming permanency, equal pay for equal work and other benefits. Since the Management failed to settle the demands the Union had raised the Industrial Dispute. The Management was not willing to concede to the demands of the Union before the Conciliation Officer also. The Conciliation Officer recorded failure of the conciliation and submitted failure report to the Government. The Government has referred the matter to this Tribunal for adjudication. An award may be passed holding that the demands of the petitioner Union are justified and also directing the First Respondent to absorb and regularize the services of all the 54 workmen as Helper A and to re-designate them as Work Assistant A on par with the 25 workmen already absorbed.

3. The First Respondent has filed Counter Statement contending as below:

The dispute is not maintainable in law or on facts. The First Respondent is engaged in the business of design, construction and operation of the Nuclear Power Stations throughout the country. The Petitioner is a Union consisting of workers who are engaged by the Second Respondent Society, a Society incorporated under the Societies Registration Act. The Society is not dependent on the First Respondent only for works. The objective of the Society includes raising funds for business, to start and run minor works, to obtain contracts from the First Respondent and other DAE units of Kalpakkam to carry out business, etc. The First Respondent had been awarding contracts to the Second Respondent Society on annual basis for carrying out some activities which are not perennial in nature or incidental to the main activities carried out by the First Respondent. The activities assigned to the Second Respondent are of short duration which does not require any personnel to be recruited on regular basis. The Society has been created by its members for the welfare of the members themselves. The Society is being controlled by an Executive committee constituted by the members of the Society. The members have no *locus-standi* for appointment on regular basis on the payrolls of the First Respondent. The concerned workmen are all contract labourers engaged by the Second Respondent. They are drawing wages which is much higher than the notified minimum wages. The First Respondent is required to notify to the concerned Employment Exchange to nominate personnel while recruiting Group "D" employees. The Second Respondent was assigned work orders on nomination basis and it is for the Second Respondent to execute the contract. The First Respondent has no control over the management of workmen engaged by the Second Respondent. Other than wages the First Respondent is providing other welfare measures also to the workmen engaged by the Second Respondent. The work done by the concerned workmen are not perennial in nature. The employees of the second Respondent are deputed only on non-core areas like maintenance and servicing jobs such as loading, unloading, pumping and repairing work. The First Respondent has not given any training to the members of the Society. The Charter of Demands raised by the Petitioner Union is not justifiable. No vacancies or sanctioned posts are available to accommodate the members of the Petitioner Union. The petitioner is not entitled to any relief.

4. The Second Respondent has filed Counter Statement contending as below:

In the year 1986 the Government of India issued an OM against recruiting persons on daily rated wages. Subsequently the First Respondent mooted the idea of forming an Industrial Cooperative Society. It is accordingly the Second Respondent Society was formed. As per the bye-laws of the Society 208 workmen who were directly employed by the First Respondent were made members of the Second Respondent. Only those who were already employed by the First Respondent were eligible to become members of the Society. Though as per the bye-law the Society can obtain contract from the First Respondent as well as other DAE units, the Society did not get any contract except from the First Respondent. Though the society was formed under the Tamil Nadu Cooperative Societies Act, it was virtually under the control and management of the First Respondent. The members of the Society have been doing the same work both before and after the formation of the Society. Initially the Office of the First Respondent was preparing the estimate

towards payment for carrying out the work. The wages payable to the members of the Society was always decided by the First Respondent. After the year 1991, work order was given on year to year basis and was not issued based on any tender. It was only on nomination basis. Though the work was permanent and perennial in nature, work order was issued initially on month to month basis and later on yearly basis to make it appear as if the work is of a particular duration. Pursuant to the repeated request for absorption of the members of the Society, 49 workmen were called for interview. However, only 23 workmen were absorbed by the First Respondent. Out of the 208 workmen originally admitted as members of the Petitioner Union, many have retired, died or left employment and only 69 were remaining in service during the year 2008. The First Respondent had arranged for SDI-MES Training to 37 members in basic fitting and measurement and basic electrical training through Government ITI. 9 persons were given training as Electrical Assistant. The training courses were conducted with an assurance to absorb the members in the First Respondent. All the members of the Second Respondent have been working in the First Respondent establishment for more than 30 years continuously. Though they were doing the same and similar work like other regular workers, these employees were not extended with same and similar pay and allowances and other benefits. They are deprived of equal treatment and equal pay. The concerned workmen cannot be denied absorption only because they are members of the Society. An Award may be passed based on the contention of the Second Respondent.

5. The petitioner has filed rejoinder denying the averments in the Counter Statement of the First Respondent and reiterating its case in the Claim statement.

6. Complaint 3/2016 was filed by the Union during the pendency of the ID. The Respondent in the ID are the Respondents in the Complaint. The averments in the complaint are as below:

The age of retirement for the employees in the First Respondent establishment is 60 years. The contention of the Complainant/Union in the ID is that the concerned workmen are direct employees of the First Respondent. If this demand is accepted the concerned workmen are entitled to continue their service till they complete 60 years. The bye-law of the Second Respondent was amended to the effect that the age of retirement of the members of the Society is fixed as 60 years. During the pendency of the dispute one of the concerned workman by name Arujunan submitted a letter dated 29.08.2015 to the First Respondent informing that the age of retirement being 60 years he should be allowed to continue in service till he attains the age of 60 years. However, the First Respondent refused to provide him work and will not allow him to enter the work spot from 01.09.2015 on the ground that he has completed the age of retirement of 58 years. Though a representation was given by Arujunan, there was no response to this. The action of the Respondents in not allowing him to work from 01.09.2015 without notice is against Section-9A of the ID Act and violative of Section-33(1)(A) of the ID Act. The First Respondent was bound to maintain status-quo as on the date of reference. They cannot alter the conditions of service to the detriment of the concerned workman. The action of the First Respondent is malafide and is by way of victimization. An Award may be passed holding that the action of the First Respondent in denying employment to Arujunan from 01.09.2015 is unjustified and also direct the First Respondent to reinstate him with continuity of service, backwages and other attendant benefits.

7. The First Respondent has filed Counter Statement contending as below:

The complaint is not maintainable either in law or on facts. The First Respondent has been awarding contracts to the Second Respondent on annual basis for carrying out some activities which are not perennial or incidental to the main activities carried out by the First Respondent. These activities are of short duration and occasional in nature. The Second Respondent Society has been created by its members for the welfare of its members. It is the responsibility of the Executive Committee of the Society to ensure that the interests of its members are taken care of. The First Respondent never intervened in the affairs of the Society. The members of the Society have no *locus-standi* to demand for appointment on regular basis on the payrolls of the First Respondent. The contract having been awarded to the second Respondent, the members are controlled by the Managing Director of the Second Respondent. The existing members of the Society were trying to take shelter by raising the age limit. The amendment made in the bye-law of the Second Respondent does not bind the First Respondent. As far as the First Respondent is concerned the age of retirement of the members of the Society is 58 years as per the provisions of Provident Fund Act and employees Insurance Scheme. Arjunan had completed the age of 58 years on 31.08.2015 and has retired as per the existing practice. His pass was withdrawn by the Second Respondent and submitted to the First Respondent.

8. The complaint being connected with the issues to be considered in the ID and the parties being the same both are considered together.

9. The evidence in the case consists of oral evidence of WW1 and WW2 and MW1 and also documents marked as Ext.W1 to Ext.W46 and Ext.M1 to Ext.M3.

10. **The points for consideration are:**

- (i) Whether the action of the First Respondent in not considering the Charter of Demands placed by the Petitioner Union is justifiable?
- (ii) What, if any are the reliefs to which the Petitioner Union is entitled on behalf of the workman concerned?
- (iii) Whether workman concerned in the complaint is entitled to reinstatement as claimed?

The Points

11. The Petitioner Union has raised the dispute on behalf of 54 workmen who are members of the Union and also members of the Second Respondent Society. The Petitioner Union had submitted a Charter of Demands to the First Respondent claiming permanency in its service, equal pay for equal work, pay and allowances, quarters, medical facilities, school facilities, educational allowances to their children, double wages for the work on national and festival holidays, bonus, incentives, canteen subsidy, extension of radiation safety equipments and annual medical check-up and check-up of cancer detection.

12. WW1, the working President of the Petitioner Union has stated in his Chief Affidavit that if the workers are given permanency and absorption there is no necessity for adjudication of Demand Nos. 2 to 13 and 16 separately. However, Demands 14 and 15 are pressed in any case.

13. The case that is put forth by the petitioner in the Claim Statement is that though they are purportedly working as contract workers of the Second Respondent the contract labour system is sham and nominal arrangement and the real employer is the First Respondent itself. It is on this basis that the relief of permanency is claimed by the petitioner on behalf of the concerned workmen.

14. The Petitioner Union had earlier approached the Hon'ble High Court of Madras claiming the relief of permanency. Ext.W11 is the order in Writ Petition No. 41/99 of 1999 filed by the 64 workmen who are members of the Society seeking direction to regularize their services from their initial employment with the First Respondent. The High Court has dismissed the Writ Petition observing that nothing has been brought to notice regarding the petitioner's right to have regularization. The petitioners filed Writ Appeal challenging this order. Ext.W13 is the order in the Writ Appeal. As could be seen from this, the petitioners had sought to withdraw the Writ Petition itself and this was allowed. It was observed in the Writ Appeal that permission having been given for withdrawing the Writ Petition the order in the Writ Petition does not survive. Liberty was given to the petitioners to raise Industrial Dispute regarding the issue.

15. Ext.W20 is the application before the Assistant Labour Commissioner for referring the dispute on the basis of the Charter of Demands of the Petitioner Union. This itself or the strike notice marked as Ext.W45 do not make mention of the right of the concerned workmen on the ground that the contract is sham and nominal. They have merely claimed regularization as well along with other demands.

16. The case of the petitioner in the claim statement, as stated, is that the labour contract system entered into with the Second Respondent is sham and nominal and the concerned workmen are to be treated as direct employees of the First Respondent. Apart from the evidence given by WW1 the Working President of the Union and that of WW2, one of the concerned workman not much of evidence is available on the part of the petitioner to show that in spite of the contract between the First and the Second Respondent control is exercised by the First Respondent or payment of wages is also by the First Respondent. In fact there is no case at all for the petitioner that payment is made to them by the First Respondent itself. This is because they were always paid by the Second Respondent Society. Even regarding exercise of control the petitioner does not have a concrete case. Though, it is stated in the Claim Statement and is repeated in the Proof Affidavits filed by the witnesses that control was exercised by the First Respondent itself, no documents are available regarding this also.

17. What is the basis upon which the petitioner is claiming that the contract system is sham and nominal? The argument put forth on behalf of the petitioner is that the very Society is a creature of the First Respondent and the Officials of the First Respondent were always exercising control over the Second Respondent Society and the Society was only a namesake one. The counsel for the petitioner has referred to Ext.W4 in support of his argument that the Society is created by the Second Respondent. Ext.W4 is the communication by the Chief Administrative Officer of the First Respondent to the Corporate Office at Mumbai. This letter refers to certain demands made by the Society. Incidentally it is stated in the letter that the purpose of forming the Society has been explained in an earlier communication. It is further stated that the service of the Society are a continuing requirement as far as the First Respondent is concerned and for all practical purposes the Society is treated as a Contractor. There is reference to the Board of Directors of the Society having been nominated by the Registrar of Industrial Cooperatives. This communication by itself does not show that the Society is one created by the First Respondent.

18. The counsel for the petitioner has been referring to Ext.M2-the bye-law of the Society also in support of his argument that the Society is a namesake one and is under control of the First Respondent. The counsel has referred to Clause-24 of the Bye-Law of the Society which states that the Chairman and Vice Chairman of the Society shall be nominee of the First Respondent. The Managing Director is a nominee of the Tamil Nadu Government and two members are to be selected from the members of the Society. According to the counsel for the petitioner the fact that Chairman and Vice Chairman are nominees of the First Respondent itself would show that the Society does not have any actual control on it but it is only the First Respondent who is controlling it. According to the counsel, this itself would show that the contracts entered into between the First and Second Respondents are sham and nominal. However, this is against the stand taken by the concerned workmen before the High Court. Ext.W11 order has referred to the

affidavit of the petitioners in which it was stated that the Society is an independent body formed under the Societies Registration Act.

19. The counsel for the petitioner has referred to certain procedural defects said to have occurred while admitting members to the Society also. Reference was made to Section-23(i)(c) of the Tamil Nadu Cooperative Societies Act. This sub-section states that a person shall not be eligible for admission as a member of a Society if he is a paid Officer or servant of the Society or of its financing bank or of any registered Society for which it is the financing bank. According to the counsel, in view of the above bar the concerned workmen who are members of the Society could not be treated as workmen of the Society. They are merely members of the Society and not the paid employees of the Society. However, Clause-B of Sub-Section(3) of the same section provides an exception to Clause-(C) of Sub-Section (i) which makes the argument redundant. This clause states that Clause-(C) of Sub-Section-(i) shall not apply to person seeking admission to or to a member of a Registered Society which has as its principal object the provision of employment to its members.

20. The counsel for the petitioner has referred to the decisions of the Apex Court in his attempt to make out that the Society acting as Contractor is actually acting as a workman itself and for this reason also the concerned workmen are to be treated as workmen of the First Respondent. Reference was made to the decision in DHARANGADHARA CHEMICAL WORKS LTD. VS. STATE OF SAURASHTRA reported in 1957 SC 264 where it was held that a person who works and makes other persons to work are also workmen. Reference was also made to the decision in GM, ONGC, SILCHAR VS. ONGC CONTRACT WORKERS UNION reported in 2008 2 LLJ 1071. It is a case where the leader of the Union was acting as the Contractor and he was also working and receiving wages from the employer. It was found that all the workmen are the employees of ONGC, the principal employer.

21. The decisions referred to above could not come to the rescue of the petitioner. Here it is not a case where a particular individual has been acting as the Contractor. It is the Society itself which is the Contractor. The Society was formed with the knowledge and consent of the workmen. They have been admitted as members of the Society on payment of a fee.

22. In any case the fact remains that the case that the contract is sham and nominal was raised only in the Claim Statement after the reference. Before the Assistant Labour Commissioner the Petitioner Union had no such case at all. This is clear from the documents filed before the Assistant Labour Commissioner. Ext.W28 is the rejoinder filed there. This states that the First Respondent has been awarding contract annually to the Society. The rejoinder also refers to the areas wherein the contract labourers were working as per the contract. It is not on the basis that the contract is sham and nominal they are claiming absorption. Ext.M8 contains a series of contracts entered into by the First Respondent with the Second Respondent for doing works annually. True the works mentioned in the contract were for a period throughout the year. However, never did the employees raise a contention that the contract is sham and nominal and they are to be treated as employees of the First Respondent directly.

23. The counsel for the First Respondent has referred to the decision in APSRTC AND OTHERS VS. SRINIVASA REDDY AND OTHERS reported in 2006 3 SCC 674. Here the claim of the workmen was turned down also for the reason that there is no contention that the contract with the Contractor was sham and nominal. Such being the case the claim of the petitioner for absorption and regularization could not be accepted.

24. The counsel for the petitioner has argued that the petitioner is claiming equal pay for equal work on behalf of the concerned workmen also. However, no evidence is available in this respect. There is nothing to show that the workmen of the Society are doing same kind of work that is done by the regular workers of the First Respondent or that they are getting lesser pay when compared to those regular workmen for any particular kind of work so this claim also could not be accepted. The petitioner will not be entitled to any relief in the reference.

25. So far as the complaint is concerned, the allegation is that one of the workmen of the Society was not provided work after he attained the age of 68 years though the age of superannuation for the First Respondent is 60 years. The Second Respondent subsequently seems to have amended its byelaw raising retirement age of its workers as 60. Direct employer employee relationship between the workman and First Respondent having not been established the complainant is not entitled to any relief against the First Respondent.

In view of the discussion above, ID 98/2014 is answered against the petitioner. An Award is passed accordingly.

Complaint No. 3/2016 is dismissed.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th January, 2017)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : WW1, Sri K. Palanisamy
WW2, Sri V. Vadivel

For the 2nd Party/Management : MW1, Sri B. Rathnashikamani

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	-	Registration Certificate of the 1 st Party Union
Ext.W2	06.07.1988	Civil and Service Maintenance Order was issued by the 2 nd Party
Ext.W3	02.09.1988	Civil and Service Maintenance Order issued by the 2 nd Party
Ext.W4	15.12.1988	Order was issued by Nuclear Power Corporation
Ext.W5	14.03.1989	Order issued by the Nuclear Power Corporation
Ext.W6	05.09.1997	Letter given by the 2 nd Party No. 2 to 2 nd Party/No. 1
Ext.W7	16.04.1998	Order in WA No. 1373/1993
Ext.W8	08.07.1998	18(1) Settlement between Tamilnadu Electricity Board and Central Organization of Electricity Employees (CITU)
Ext.W9	18.06.1998	Order of recruitment to the post of Helper-A
Ext.W10	28.02.2003	Appointment Order issued by the Govt. of India, Department of Atomic Energy
Ext.W11	15.10.2004	Order in W.P. No. 4199/1994
Ext.W12	13.05.2005	Holiday entry permit issued by the 2 nd Party/Party No. 1
Ext.W13	09.11.2005	Order in W.A. No. 2015/2005
Ext.W14	16.05.2006	Representation given by the Tamilnadu Atomic Power Employees Union for permanent appointment to the KINCOSS workmen
Ext.W15	07.09.2007	Representation given by the Tamilnadu Atomic Power Employees Union for permanent appointment to the KINCOSS workmen
Ext.W16	13.11.2008	Order issued by the 2 nd Party/Party No. 1
Ext.W17	03.12.2008	Order issued for training by the 2 nd Party/Party No. 1
Ext.W18	27.10.2009	Letter given by the 2 nd Party/Party No. 2 to 2 nd Party/Party No. 1
Ext.W19	19.03.2011	Order relating to re-deployment of Attendants and Driver
Ext.W20	24.03.2011	2(k) dispute raised by the 1 st Party Union before the ALC
Ext.W21	04.05.2011	Order in WP No. 12116/2011
Ext.W22	27.05.2011	Letter given by the 1 st Party Union to the 2 nd Party/Party No. 2
Ext.W23	09.06.2011	Letter given to the 2 nd Party/by the 2 nd Party/Party No. 2
Ext.W24	19.07.2011	Order issued by the 2 nd Party/Party No. 1
Ext.W25	29.09.2011	Reply filed by the 2 nd Party/Party No. 1 before the ALC
Ext.W26	29.09.2011	Rejoinder filed by the 1 st Party before the ALC
Ext.W27	31.10.2011	Reply filed by the 2 nd Party/Party No. 1 before the ALC
Ext.W28	14.11.2011	Rejoinder filed by the 1 st Party before the ALC
Ext.W29	13.02.2012	Failure report
Ext.W30	15.05.2012	Minutes of the 1 st Party Union
Ext.W31	22.05.2012	Representation given by the 1 st Party Union
Ext.W32	05.09.2012	Letter given by the Principal Government Industrial Training Institute to
Ext.W33	02.11.2012	Letter given by the Principal Government Industrial Training Institute to the Regional Director of Apprenticeship Training

Ext.W34	20.12.2012	Certificates issued by the Ministry of Labour & Employment, Regional Directorate of Apprenticeship Training
Ext.W35	08.09.2014	Failure report
Ext.W36	27.10.2014	Order of Reference
Ext.W37	-	Members of the 1 st Party Union who got radiation dose from 2 nd Party Reactor Building
Ext.W38	-	Radiological work permit order issued by the 2 nd Party
Ext.W39	-	Advertisement given by the 2 nd Party/Party No. 1 to fill up 42 posts
Ext.W40	-	Annual Maintenance Contract for the year 2015-2016
Ext.W41	05.12.2008	Documents showing the details of Training courses given to the canteen employees and KINCOSS Employees conducted by the 2 nd Party/Party No. 1 On the Management's side
Ext.W42	-	Hand Receipt Payment Measurement book from 1986 to 1987 pertaining to one Mr. E. Ramu, who was employed alongwith the workmen concerned in the 1 st Party Management before the formation of the 2 nd Party/Part No.2
Ext.W43	09.04.2012	Representations given by the TAPEU to 2 nd Party Management and the Hon'ble Prime Minister of India
Ext.W44	14.05.2012	Minutes of Meeting between the 2 nd Party Management and TAPEU
Ext.W45	04.02.2013	Strike Notice issued by the TAPEU
Ext.W46	15.02.2013	Minutes of the Conciliation Proceedings

On the Management's side

Ex.No.	Date	Description
Ext.M1	-	Letter of Authorization
Ext.M2	-	Bye-Laws of the KINCOSS (Exhibits.M1)
Ext.M3	-	Samples of Annual Agreements entered between MAPS and KINCOSS for the years 2011-2012, 2012-2013, 2013-2014, 2014-2015 and 2015-2016

नई दिल्ली, 2 मार्च, 2017

का.आ. 634.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैनेजिंग जनरल मैनेजर (एचआरडी), भारत एअर्थ मोवेर्स लिमिटेड बेंगलोर व अन्य एवं उनके कर्मचारी, के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलोर के पंचाट (संदर्भ संख्या 23/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.02.2017 को प्राप्त हुआ था।

[सं. एल-42011/35/2015-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 634.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 23/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager (HRD), Bharat Earth Movers Limited, Bangalore and others and their workman, which was received by Central Government on 18.02.2017.

[No. L-42011/35/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT
YESWANTHPUR, BANGALORE – 560 022****DATED** : 01st NOVEMBER, 2016**PRESENT** : Shri V. S. RAVI, Presiding Officer**C R No. 23/2015****I Party****II Party**

The General Secretary, BEML Contract Workers Union, No. 103, 1 st Floor, East Wing, 2 nd Cross, K.S. Building, Gandhinagar, Bangalore - 560009	<ol style="list-style-type: none"> 1. The General Manager (HRD), Bharat Earth Movers Ltd., Bharat Complex, New Thippasandra Post, Bangalore – 560075. 2. M/s. V.V Enterprises, EM Division and Medical Establishment., BEML Nagar Post, BEML KGF, Karnataka – 563115. 3. M/s Ex-Serviceman Association, EM Division , BEML Nagar Post, BEML, KGF, Karnataka- 563115. 4. M/s A.V.R Enterprises, EM Division, BEML Nagar Post, BEML KGF, Karnataka – 563115. 5. M/s Praveen Electronics, C/o BEML Ltd, BEML Nagar Post, BEML KGF, Karnataka – 563115. 6. M/s Durgambal, C/o BEML Ltd, BEML Nagar Post, BEML KGF, Karnataka – 563115.
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AWARD

1. The Central Government vide Order No.L-42011/35/2015-IR(DU) dated 07.05.2015 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the charter of demands made by the BEML contract workers union against the management of BEML KGF and the Contractors of BEML KGF are justified? If not, what relief the contract workmen are entitled to?”

Charter of demands

Sl. No.	Nature of demands	Details of Nature of demands
01	Component of Rates of wages	to skilled, semi-skilled and unskilled categories.
02	Casual Leave	12 days in calendar year.
03	Earned Leave	02 days for each completed month of service.
04	Paid holidays	12days in a calendar year. The Specific dates will be declared by the concerned office from time to time.
05	Uniforms	Gents – 4 sets once in two years Ladies – 4sarees and material for 6 blouses, once in two years.

06	Stitching charges for the uniforms	Rs.500/- per set for Gents and Rs.500/- for four sarees plus six blouses, once in two years.
07	Shoe Allowance	Rs.1500/- per annum to those who are not being provided with safety shoes or any other kind of footwear by the Company.
08	ESI Facility	Will be given as per the Provisions of the ESI Act.
09	Employees Provident Fund	Will be covered as per the provisions of the EPF and MP Act 1952.
10	Group Insurance	Will be covered under LICs Group Insurance Scheme, in lieu of employees Deposit Linked Insurance Scheme under the EPF Act.
11	Accumulation of Earned Leave	Maximum of 60 days allowed.
12	Encashment of Earned Leave	Entitle to encash 50% of the Earned Leave at credit, subject to minimum of 5 days and maximum of 30 days, while in service. The encashment while in service allowed only once in a Calendar Year. On retirement, death, termination of Services.

2. After the receipt of the reference, the matter has been registered on the file of this Tribunal and notices have been sent for both parties. None appeared for the Ist party and Ist party also called absent. Infact, notice of hearings have been sent to the I party by RPAD through the Department of Posts, India. Still, no representation has been made on behalf of I party and also, I party is called, absent.

3. On perusal of records, already notices have been sent to both the parties through the RPAD by this Tribunal. Hence, it is found that inspite of giving sufficient and adequate chances by issuing notices of hearing to I party, the I party has not made any appearance. In such circumstances, the matter is posted for passing Award, after the perusal of entire records brought on record.

4. Further, from the above mentioned circumstances, it would be very much clear, in the present matter, that the I party has no interest to contest the present matter, inspite of the issuance of notices of hearing to the I party by RPAD. It is for the I party to make out a case that I party is entitled to the above mentioned benefits and that the management has done a mistake by denying the said benefits. Under the above mentioned special circumstances and peculiar facts, this Tribunal is constrained to pass appropriate award, after the perusal of materials available on record.

5. Since no appearance has been made and also claim statement has not been filed and further no case has been made out by I party and the present reference has only to be rejected for non- prosecution. Therefore, keeping in view the conduct of I party in, not appearing before this Tribunal, even though notices have been sent to the I party by way of RPAD and the conduct of I Party in not filing claim statement, in support of the said reference, it is crystal clear that the I party is no more interested in prosecuting the claim against II party. In the result and also in above mentioned facts and situations, it is to be held that the present reference has to be rejected, for non prosecution and no useful purpose will be served in keeping the proceedings any more pending. Hence the following award.

AWARD

Reference is dismissed for non-prosecution.

(Dictated, transcribed, corrected and signed by me on 1st November, 2016)

V. S. RAVI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 635.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिप्टी इस्टैब्लिशमेंट ऑफिसर एंड प्रिंसिपल एम्प्लायर, व अन्य मुंबई एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नंबर 2, मुंबई के पंचाट (संदर्भ संख्या 2/91 ऑफ 2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/70/2014-आई.आर. (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 2nd March, 2017

S.O. 635.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 2/91 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the Deputy Establishment Officer and Principal Employer and others Mumbai and their workman, which was received by Central Government on 09.12.2016.

[No. L-42011/70/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI****PRESENT :** M.V. DESHPANDE, Presiding Officer**REFERENCE No. CGIT-2/91 of 2014****EMPLOYERS IN RELATION TO THE MANAGEMENT OF****(1) M/S. SHIVKUMAR ENTERPRISES****(2) (2) BARC (Principal Employer)**

(1) The Proprietor

M/s. Shiv Kumar Enterprises

Conservancy and Housekeeping Contractor

Shivanam Building

Aziz Baug, Mahul Road

Chembur

Mumbai-400 074.

(2) The Dy. Establishment Officer & Principal Employer

BARC, Trombay HRD & SR & W

Central Complex

Mumbai -400 085.

AND**THEIR WORKMAN.**

The President

Mumbai Shramik Sangh 'Sangharsh'

Quary Road

Bhandup (W)

Mumbai-400 078.

APPEARANCES:

FOR THE EMPLOYER : Mr. H. D. Rathod, Advocate

FOR THE UNION/ WORKMAN : No appearance.

Mumbai, dated the 7th November, 2016**AWARD**

The Government of India, Ministry of Labour & Employment by its Order No.L-42011/70/2014-IR (DU), dated 16.09.2014 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demand of the 23 contract labours for regularization in the services of Department of Atomic Energy, BARC is justified? If so to what relief the workmen are entitled to?”

List of Workers working at new training School Complex

1. *Sakthivel*
2. *Raja Raman*
3. *G. Sakthi Kumar*
4. *Darmalingam*
5. *Archana*
6. *Fernandes*
7. *Vino Veera Swami*
8. *Moideen Basha*
9. *Arun Kumar*
10. *Ramesh Kolangi*
11. *Muruges*
12. *Arjun Selvan*
13. *Vishnu Naidu*
14. *Kiran*
15. *Vijay Yadav*
16. *Sandeep*
17. *Anita*
18. *Sheetal*
19. *Bakthi*
20. *Morugan*
21. *Elavarason*
22. *Subhash*
23. *Amebdkar Swami*

2. After receipt of the Reference, notices were issued to both the parties. Acknowledgement of notice served on the second party Union is at Ex-7. First party Management filed Vakalatnama of Mr. H.D. Rathod. Matter was adjourned on several occasions for filing Statement of Claim by second party/ Union. Second party/ Union neither appeared before this Tribunal nor filed Statement of claim. First party filed application (Ex-9) for dismissing the Reference for default & non prosecution. Without Statement of claim, the Reference cannot be decided on merits and the same deserves to be dismissed. Orders were passed on Ex-9. Accordingly I pass the following order:

ORDER

Reference stands dismissed for want of prosecution.

Date: 07.11.2016

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 636.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 मार्च, 2017 को उस तारीख के रूप में नियत करती है, जिसे उक्त अधिनियम के अध्याय IV (धारा 44 व 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) तथा अध्याय V और VI [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध पश्चिम बंगाल राज्य के निम्नलिखित जिलों के क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“नदिया एवं मुर्शिदाबाद जिलों (पश्चिम बंगाल) के सभी क्षेत्र/संपूर्ण क्षेत्र” ।

[सं. एस-38013/01/2017-एस.एस.-I]

अजय मलिक, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 636.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2017 as the date on which the provisions of Chapter-IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following Areas in the State of West Bengal namely :—

“All the areas of the Districts Nadia and Murshidabad, West Bengal.”

[No. S-38013/01/2017-S.S.-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 2 मार्च, 2017

का.आ. 637.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 मार्च, 2017 को उस तारीख के रूप में नियत करती है, जिसे उक्त अधिनियम के अध्याय IV (धारा 44 व 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) तथा अध्याय V और VI [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध झारखण्ड राज्य के 15 जिलों के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, नामतः—

क्र.सं.	जिला का नाम	निम्नलिखित के अधीन सम्पूर्ण क्षेत्र
1	पश्चिमी सिंहभूम	म्युनिसिपल क्षेत्र चाईबासा
2	हजारीबाग	म्युनिसिपल क्षेत्र हजारीबाग
3	गढ़वा	म्युनिसिपल क्षेत्र गढ़वा
4	पलामू	म्युनिसिपल क्षेत्र पलामू
5	लातेहार	नगर पंचायत क्षेत्र लातेहार
6	लोहरदगा	म्युनिसिपल क्षेत्र लोहरदगा
7	सिमडेगा	नगर पंचायत क्षेत्र सिमडेगा
8	खूंटी	नगर पंचायत क्षेत्र खूंटी
9	गुमला	म्युनिसिपल क्षेत्र गुमला
10	चतरा	म्युनिसिपल क्षेत्र चतरा
11	जामताड़ा	नगर पंचायत क्षेत्र जामताड़ा
12	पाकुड़	म्युनिसिपल क्षेत्र पाकुड़
13	गोड्डा	म्युनिसिपल क्षेत्र गोड्डा
14	साहेबगंज	म्युनिसिपल क्षेत्र साहेबगंज
15	दुमका	म्युनिसिपल क्षेत्र दुमका

[सं. एस-38013/06/2017-एस.एस.-I]

अजय मलिक, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 637.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2017 as the date on which the provisions of Chapter-IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following Areas of following 15 Districts in the State of Jharkhand namely :—

Sl.No.	District	All the areas falling under
1.	West Singhbhum	Municipal Limit of Chaibasa
2.	Hazaribagh	Municipal Limit of Hazaribagh
3.	Garhwa	Municipal Limit of Garhwa
4.	Palamu	Municipal Limit of Medininagar
5.	Latehar	Nagar Panchayat Limit of Latehar
6.	Lohardaga	Municipal Limit of Lohardaga
7.	Simdega	Nagar Panchayat Limit of Simdega
8.	Khunti	Nagar Panchayat Limit of Khunti
9.	Gumla	Municipal Limit of Gumla
10.	Chatra	Municipal Limit of Chatra
11.	Jamtara	Nagar Panchayat Limit of Jamtara
12.	Pakur	Municipal Limit of Pakur
13.	Godda	Municipal Limit of Godda
14.	Sahebganj	Municipal Limit of Sahebganj
15.	Dumka	Municipal Limit of Dumka

[No. S-38013/06/2017-S.S.-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 2 मार्च, 2017

का.आ. 638.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स न्यू इंडिया एश्योरेन्स कम्पनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 20/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-17025/2/2017-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 638.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2014) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. New India Assurance Company Ltd. and their workman, which was received by the Central Government on 23.02.2017.

[No. L-17025/2/2017-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ERNAKULAM****Present:** Shri.K Sasidharan, B.Sc., LLB, Presiding Officer(Wednesday the 25th day of January, 2017/05th Magha, 1938)**ID 20/2014**

Workman/Applicant : Smt. Jainy. D,
Puthenveedu,
Kaithathukonam, Kurakkada P.O.,
Kizhuvilam, (Via)
Thiruvananthapuram – 695 104.

(Ex-parte)

Managements : 1. The Regional Manager,
New India Assurance Company Ltd.,
36/707, Kandamkulathy Towers,
Opp. College Ground,
M. G. Road, P. B. No.1049,
Kochi – 682 011.

2. The Divisional Manager,
New India Assurance Company Ltd.,
Chandrasekharan Nair Stadium, Palayam,
Thiruvananthapuram – 695 033.

By M/s. Sheriff Associates (For Managements 1 & 2)

This case coming up for final hearing on 11.01.2017 and this Tribunal-cum-Labour Court on 25.01.2017 passed the following:

AWARD

This is an application filed by the workman under Section 2A(2) of the Industrial Disputes Act, 1947.

2. The averments in the application in brief are as follows:

The workman joined the services of the management company as an employee on 03.06.2002. She continued employment under the management till 18.02.2013 without any interruption. She was removed from service by the management on 20.02.2013 without any notice. Initially the management paid ₹50/- per day to the workman and later it was increased to ₹100/- per day. From the year 2005 she was receiving ₹150/- per day towards wages. From the year 2010 the daily wages was enhanced to ₹200/- and from January, 2013 she was getting ₹250/- per day as wages. Apart from this the management paid bonus to the workman.

3. The workman was employed through the recruitment agency namely, 'Bharath Employment', Attingal which is registered with Government of India. During the tenure of employment the workman rendered a disciplined, faithful and hard work to the management. While accepting payment from the management she issued vouchers. Even though the workman was appointed as a peon under the management she had to perform the duty as a sweeper as well as a clerk. The courier register and despatch register retained by the management will reveal this aspect. From the bank account No. 852520100000380 at the Bank of India, Attingal branch in the name of the workman it can be seen that she was an employee under the management.

4. While removing her from service the management has not complied legal requirements preceding the termination. The workman approached the Assistant Labour Commissioner (Central), Thiruvananthapuram with a request to resolve the issue. The matter could not be resolved at the intervention of the conciliation officer. Finally a certificate evidencing the failure of conciliation was issued by the conciliation officer. There was no earnest effort on the part of the management to resolve the dispute and to reinstate the workman in service. Therefore the workman has requested to pass an award declaring that the termination of her service by the management as illegal, unjust, arbitrary and against the principles of natural justice; to direct the management to reinstate her in service with continuity of service, back wages and other attendant benefits.

5. The averments in the written statement filed by the managements in brief are as follows:-

The management denied all the averments in the application under Section 2A(2), except those that are specifically admitted. The workman never joined as an employee under the management and she never worked under the management in that position. Therefore, there is no question of termination of her service by the management. The management is a Government of India undertaking and governed by the provision of the General Insurance Business (Nationalization) Act, 1972. Various posts in different categories of employees at various branches of the company should be sanctioned by the Chairman-cum-Managing Director from time to time. In respect of the posts so sanctioned, there is transparent selection procedure and recruitment rules in order to fill up the vacancies. The management has to ensure reservation of all categories of persons as per the policies and guidelines issued by the Government of India from time to time in this regard. The management has to comply the criteria for selection with regard to age, educational qualification, experience etc. required for each such posts. The contention of the workman that she was employed under the management is absolutely false. Even according to her contention, she was deputed through an agency called 'Bharath Employment'. Therefore there is no employer-employee relationship between the management and the workman. The workman is trying to build up the case without even a letter of appointment. The hand writing in the registers retained by the management is not sufficient to arrive at a conclusion that the workman was an employee under the management. The allegation that the management terminated her from service in order to wreck vengeance against her is absolutely false.

6. On some occasions in order to meet the local requirements of the office the management used to avail the services of certain employment agencies approved by the Central Government who provide services of some casual labourers. On such requests the agencies provide sufficient manpower to meet the temporary requirements. The services of those persons were rendered by the agencies approved by the Central Government. None of those persons who were employed to meet the local requirements are entitled to get employment of permanent nature under the management. They are not entitled to make any claim for employment against the management. The management has requested to disallow the claim of the workman.

7. After filing written statement by the management the matter was posted for filing rejoinder by the workman. The workman has not filed any rejoinder.

8. After affording sufficient opportunity to both sides, the matter was posted for evidence. The workman tendered evidence as WW1 and Exts.W1 to W5 are the documents marked on her behalf. No oral or documentary evidence has been adduced on behalf of the managements. When the matter was posted for final hearing the workman remained absent. There was no representation on her behalf. Hence she was set ex-parte. Heard the counsel for the management.

9. The points arising for consideration are:

- “(i) Whether the applicant in this application under Section 2A(2) is a ‘workman’ as defined under Section 2(s) of the Industrial Disputes Act?**
- (ii) Whether the applicant is entitled to get an order for reinstatement with back wages, continuity of service and other benefits as claimed?**
- (iii) Reliefs and costs.”**

10. Point Nos.(i) & (ii):- This is an application filed under Section 2A(2) of the Industrial Disputes Act, 1947 as amended by Act 24 of 2010. The applicant/workman has stated that she was employed under the management as a peon for the period from 03.06.2002 to 18.02.2013. She would further state that her service was terminated by the management without any notice, w.e.f. 20.02.2013. She has stated that initially she was getting a sum of ₹50/- per day towards wages; later it was enhanced to ₹100/-; again it was enhanced to ₹150/- per day with effect from 2005. From 2010 it was enhanced to ₹200/- per day and from January, 2013 it was enhanced to ₹250/- per day. She has stated that besides the daily wages, she received the bonus and other benefits from the management.

11. The status of the applicant as a workman is disputed by the management. According to the management, they never appointed the applicant as an employee under them and that there is no employer – employee relationship between them. It is stated that they temporarily requested workforce from the approved agencies; who provided sufficient manpower to them and for which they paid amount to the approved agencies. It is stated that there was no appointment order or termination order issued by them to the workman. It is stated that the management is a public sector undertaking and are governed by the rules, regulations and notifications for appointment of persons in the regular posts. Further they have to ensure reservation for all categories of persons employed under them. It is stated that they will have to follow selection procedure and recruitment rules. It is stated that the applicant was never an employee under the management.

12. Even as per the admission of the workman she was employed through the recruitment agency by name the 'Bharath Employment', Attingal which is a registered agency with Government of India. While examined as WW1 the workman has stated that she was employed through an agency on daily wage basis. She has stated that she has not produced any documents evidencing her appointment by the management. On going through the evidence tendered by WW1 and the documents marked on her behalf it is evident that she was never employed by the management as an employee or workman. Instead it can be seen that she was deputed on daily wage basis through an agency approved by the Government of India. She never underwent any selection process or recruitment process so as to claim the benefit of employment/as a workman under the management. It follows that the applicant in this Industrial Dispute will not come under the purview of "workman" as defined under Section 2(s) of the Industrial Disputes Act, 1947. There was no employer – employee relationship between the management and the applicant in this case. Therefore the applicant is not entitled to the relief claimed. Hence the points are answered against the applicant.

13. Point No.(iii):- In view of the finding on point Nos.(i) and (ii) the applicant is not entitled to the relief claimed. The point is answered accordingly.

14. In the result an award is passed holding that the applicant in this case is not entitled to the relief claimed and his claim is rejected.

The Award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 25th day of January, 2017.

K. SASIDHARAN, Presiding Officer

APPENDIX

Witness for the workman

WW1 Smt. Jainy. D 13.04.2016

Witness for the managements

NIL

Exhibits for the workman

- | | | |
|----|---|--|
| W1 | - | True copy of the donation receipt No.002083 dated 04.02.2008 for ₹100/- paid to The GIC Employees' Union Kerala, Kandomkulathy Towers, Ernakulam, Cochin by the workman/applicant. |
| W2 | - | True copy of the Disbursement Voucher No. 760503/83/09/0000000339 dated 08.01.2010 for an amount of ₹750/- issued by The New India Assurance Company Limited, Main Road, Attingal to the applicant. |
| W3 | - | True copy of the receipt No. Nil dated 08.01.2010 for an amount of ₹750/- received from the Branch Manager, The New India Assurance Company Limited by the applicant. |
| W4 | - | True copy of the inter-office correspondence letter No. 760503/2002 dated 27.09.2002 addressed to the The New India Assurance Co. Ltd., Divisional Office, Trivandrum by the Branch Manager, The New India Assurance Co. Ltd., Attingal. |
| W5 | - | True copy of the Cheque Nos. 013113 dated 07.02.2013 for an amount of ₹1,385/- and 013117 dated 08.02.2013 for an amount of ₹1,724/- paid by the authorized signatory of the management to the applicant. |

Exhibits for the managements

NIL

नई दिल्ली, 2 मार्च, 2017

का.आ. 639.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बालमेर लॉरी कं. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 82/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30011/18/2009-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 639.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 82/2012) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Balmer Lawrie Co. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30011/18/2009-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : RAKESH KUMAR, Presiding Officer

I.D. No. 82/2012

Ref.No. L-30011/18/2009-IR(M) dated 14.09.2012

BETWEEN

The General Secretary,
Balmer Laurie Karamchari Sangh.
1B-34, Motikunj, Post Dhoulai Pyau, Distt.
Mathura

AND

1. The Managing Director
M/s Balmer Lawrie Co. Ltd.,
21, Netaji Subhash Road, Kolkatta
2. The Managing Director,
M/s Anant Raj Industries Ltd.,
(Ex-M/s Anantraj Clay Products Ltd.,
H-65, Connought Circus, New Delhi

AWARD

1 By order No. L-30011/9/2009-IR(M) dated 14.09.2012 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between General Secretary, Balmer Laurie Karamchari Sangh, Mathura, and the Managing Director, Balmer Lawrie & Co. Kolkatta/ Managing Director, M/s Anant Raj Industries, New Delhi for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF M/S BALMER LAWRIE & CO. LIMITED, MATHURA (I) IN SELLING THEIR COMPANY TO M/S ANANTRAJ CLAY PRODUCTS LIMITED NEW DELHI AFTER DECLARING LOCK OUT W.E.F. 2.5.1994 WITHOUT MAKING PAYMENT OF STATUTORY DUES TO THE WORKMEN INVOLVED; AND (II) IN TERMINATING THE SERVICES OF THE WORKMEN (AS PER ANNEXURE) WITHOUT LIFTING THE LOCK OUT AND NOT RE ENGAGING THE ABOVE WORKMEN, AS PER MOU DATED 3.1.1994 WITH M/S ANANTRAJ INDUSTRIES LIMITED (FORMERLY M/S ANANTRAJ CLAY PRODUCTS LIMITED), AFTER TRASFER OF PROPERTY ALONG WITH WORKMEN W.E.F. 11.5.1994 VIDE SALE DEED DATED 25.3.1994; ARE LEGAL AND JUSTIFIED? IF NOT, WHAT RELIEF THE WORKMEN CONCERNED ARE ENTITLED TO AND FROM WHICH DATE?”

3. As per claim statement W-3 the workmen union has stated in brief that the petitioner union is registered with registration no. 6595 and represents all working employees of Balmer Lawrie, and opposite party no.1 is registered under Companies Act., and it deals with the manufacturing of LPC Gas Cylinders at Mathura, under Indian Oil Corporation. The petitioner union has stated that as per certified Standing Orders service conditions of the employees are being regulated, the land on which the factory of opposite no.1 is situated, has been leased out by UPSIDC, Agra in the name of opposite party no.1, however, the transfer of the unit from opposite party no.1 to opposite party no.2 has not yet been approved by the UPSIDC neither any lease has been executed in favour of opposite party no.2.

4. The applicant union has emphasized that mainly opposite no.1 is only unit of Central Government in U.P. which is engaged in supplying LPC Gas cylinders to the 3 different companies engaged in the business. It was informed by the employer during conciliation proceeding that merit was ignored knowingly by the administrative authorities in giving preference to the items produced by the Indian Oil Corporation, Mathura, Hindustan Petroleum and Bharat Petroleum and in order to conceal its short comings, without any disinvestment by the Parliament an agreement was analyzed by opposite party no.1 with opposite party no.2 and in its consequence sale deed was written on 25.3.94 it was not executed/registered at Mathura but it was got registered at New Delhi whereas the office of the Seller was situated at Calcutta and all moveable and immoveable property was situated at Mathura, with ulterior motive/intention in order to rectify the collusion in legal shape. The employer issued letter dated 30.1.1993 informing thereby that production has been stopped and labourers were directed/advised not to enter in premises, information regarding payment was also issued, and it was shown that the production had been stopped since August 1992. After about more than a year, in order to ensure selling process of the unit, letter dated 30.1.1993 was issued mentioning therein disbursement of salary without any work alongwith other facilities so that it might reflect that the company was running in deficit.

5. It has been asserted in the claim statement that later on opposite no. 1 issued a lock out notice dated 1.5.1994 with forged and manipulated facts and concocted story. Lock out was purported to be effective from 2.5.94 till further orders. Copy of the notice was endorsed to the UP Labour Department and its officers and Administrative Authorities, Mathura. It has been emphasized that it was no where mentioned in the said letter dated 30.1.1993 that which employees specifically were summoned in the office, and when and with whom their behaviour was improper, impertinent and inappropriate, whereas since 1.2.93 all the employees used to visit office in order to receive salary and other service dues and to move medical leave application etc., and at any point of time after 1.2.93 total number of employees who had come to the office/Industry never exceeded 150, neither any employee misbehaved with any officer nor any disobedience was expressed. It has been alleged that lock out notice was prepared fraudulently in consultation with legal expert, absolutely false facts mentioned therein. The petitioner union has stressed that legally lock-out can not be stretched for indefinite period, no FIR was lodged by the management with the Police Station neither any complaint was made to DM, Mathura nor any information was sent to the Labour Department. Before revoking the lock out notice and without payment of the dues for that period, the unit was sold to opposite party no.2 by opposite party no.1 illegally and after the execution of sale deed information for lock out given on 1.5.94 by opposite party no.1 was without any rationality, morality or any legal right. Moreover, no dues for the lock out period has sofar been paid to the labourers. The aforesaid lock out has been alleged to be violative of the provision of I.D. Act., no valid notice was given, directions of the Certified Standing Orders was not followed by the management of the opposite party no.1.

6. The union has emphasized that the so called sale/transfer process is improper, illegal and against the principle of natural justice as well, before enforcing the transfer order of the employees no opportunity was given to them to submit their version and the employees were treated as slaves of the management, service conditions mentioned in the Standing Order have not been followed by the management, they were ignored/set aside by the management ex-parte. Service conditions were binding on both the parties viz. employees as well management of opposite party no.1. The petitioner union has stated that the judgment pronouncement of Hon'ble Supreme Court on 11.10.2007 in Civil Appeal no. 678,724,683,726,727/2006 is binding on all the courts of the country as provided in Constitution of India Article 141. It has been stressed that the MOU dated 3.1.94 executed between both the opposite parties was neither legal nor ethical, rather it is improper and it is not binding on the employees of the opposite party no.1, since the management has terminated the services of its employees against the provision of Certified Standing Orders and facts mentioned in the appointment letter.

7. The applicant union has further stated that several units of opposite party no.1 are still functional at Calcutta, Mumbai, Kochin, Chennai, Bangalore, Lucknow, Aswati, Dubai and London etc but the management did not transfer any of its employers to other units while all administrative and Executive officers of the Mathura unit have been transferred/adjusted in other units, which is against the mandatory provisions of the Constitution of India. With the aforesaid pleadings request has been made by the petitioner union to issue directions for reinstatement of the labourers/employees mentioned in the enclosed list in other units of opposite party no.1 with continuity in service. Prayer has also been made for payment of the salary and other service dues to all the employees accordingly. The union has also requested this Court to declare the retrenchment/termination of the services of the employees after indefinite lock out, as illegal, improper and against the principle of natural justice.

8. As per the list W-4 several documents have been filed by the workman.

9. The opposite party no.1 has been filed written statement M-10 and the allegations leveled in the claim statement have been denied. The opposite party no.1 has emphasized that the reference sent by the Central Government is illegal and bad in the eyes of law and without jurisdiction and the alleged matter in dispute can not be treated as industrial dispute, in the letter of reference there is no annexure referred pertaining to issue no. 2, regarding issue no.1 legality

and justifiability of the transfer of ownership of the unit can not form part of industrial dispute as per the provisions of I.D. Act. It has further been stated that legality and justifiability of terminating the services w.e.f. 11.5.94 and the issue of non re-engaging w.e.f. 11.5.94 are not industrial dispute since OP no.1 has never terminated the services of workmen w.e.f. 11.5.94 and there was no question of re-engaging as well, opposite party no.1 is not employer of the workmen on 11.5.94 in view of transfer of undertaking.

10. OP No.1 has asserted that the matter issue can not be referred in view of the judgment dated 18.7.94 passed by Hon'ble High Court in Civil Misc. writ petition no. 6874/94 where in Hon'ble Court observed that the objection of transfer of undertaking ought to have been raised before the appropriate forum which deals with corporate matters and Central Government has acted quite illegally and unauthorisedly in referring the present issues which are not existing dispute and are virtually dead disputes. The present issue has been sent after more than 18 years from the alleged cause of action which arose on 11.5.94, moreover reference was made at time when disputes do not exist at all, the Central Government has not considered the fact that it is not possible for management to keep the track of such old records at the present time specifically when the unit has been transferred. Protection of the past services of the workers, to an independent concern in due compliance of Section 25FF of the I.D. Act., can not be examined by this Court in furtherance of the reference sent by the Central Government. OP No.1 has asserted that in the present case services of the employees were transferred on the same terms and conditions protecting past services of the workers, referring authority has not applied its mind and the letter has been issued in mechanical manner under the garb of order of Hon'ble High Court. Infact no cause of action has accrued to the union and the workmen for the alleged disputes referred for adjudication.

11. Opposite party no.1 has further submitted that it is a Government Enterprise having its registered office at Calcutta, company established cylinder and stove division at UPSIDC, Mathura to manufacture LPG cylinders. The unit witnessed serious I.R. problems, low productivity, poor quality of the product resulting in frequent suspension of production by BIS, each division established having own accounting system and profit & loss maintenance record and separate conditions of service. Cylinders were manufactured for domestic use. Units faced financial loss detected at the filling plant. That from the very inception the erstwhile cylinder and store Division was incurring losses. The cumulative loss of the erstwhile CSDM was approximately Rs11.00 crores up to 93-94 on capital investment of Rs.4.00 crores. The viability of erstwhile CSDM was adversely affected, company had no other alternative except to close the plant, it was compelled to transfer the ownership to a buyer. The Bureau of Indian Standards suspended the manufacturing activity of the unit with effect from 12..08.92. The majority union opposed the re-habilitation plan in Nov. 92.

12. It has been stated in the written statement by OP no.1 that duly constituted committee considered the matter. The services of all the employees were to be transferred and the interest of the employees was safeguarded MOU was finalized, letter dated 15.2.1994 was issued by the Company to all ex-workmen of the company bringing to their knowledge about the proposed transfer to ARCPL. The buyer also wrote a letter to workmen and advised them to report on duty on 11.5.94, 8 workmen opted for Retrenchment Compensation, but after getting information regarding transfer of ownership of the unit, the workmen and the union went on a rampage and started agitation, gherao and dharnas. The union and the workmen resorted to all illegal activities and destroyed the property of the company and their agitation turned violent. Under these circumstances the management was compelled to declare a lock out w.e.f. 2.5.94 and intimation as required under law was given to the concerned authorities. The OP No.1 sent the information to ALC, Agra and other authorities regarding transfer of ownership. The union and two workmen had filed writ petition No. 6874 of 94 before the Hon'ble High Court, Allahabad praying to quash the letter dated 15.2.94 and quash the MOU between the company and buyer. The petition was dismissed by a Division Bench. The workmen filed a SLP and a writ petition under Article 32 of the Constitution of India before the Hon'ble Supreme Court to quash the MOU and Sale Deed with the buyer. The Hon'ble Supreme Court dismissed the SLP and on request of the union allowed the writ petition to be withdrawn. Subsequently a number of cases were filed under section 3 of UP Industrial Peace Act. 1978 before DLC, Agra who passed the recovery order against the company. The Company filed Writ Petition before Hon'ble High Court and Hon'ble High Court quashed the order with the direction to DLC, Agra to look into the matter afresh and take decision in accordance with the law in light of observations made in the judgment. Review petition was filed against the order dated 19.11.96 which was dismissed. Thereafter union approached to ALC through application dated 1.11.07. The contention of the union is baseless and misconceived version for transfer of ownership of the unit and non-payment of wages for the period of lock out till the possession to Anant Raj Clay Product Ltd. has been taken. Review petition against the order dated 19.11.96 passed by Hon'ble High Court was also dismissed. Direction was given to refer the matter to the appropriate authority to decide the legality and thereafter the Govt. referred the dispute to Industrial Tribunal, Agra under Section 4(K)UP. I.D. Act.1947, the award passed by the Industrial Tribunal on 15.10.94 was not challenged by the union thereafter they approached to ALC through application dt. 1.11.07 with baseless and misconceived version, transfer of ownership and non payment of wages for the period of lock out was challenged. OP No.1 has emphasized that option was given to move for receiving compensation. Union filed Civil suit

before Civil Judge, Mathura. The company was compelled to file a writ petition no. 30977/97 before Hon'ble High Court and direction was issued to DM, Mathura and SSP to provide security to the company.

13. It is clear that the reference made by the Central Govt. is not legal and is not maintainable either in law or on facts and in any case, the issues referred can not form part of the industrial disputes and in fact no such dispute was ever raised, espoused and converted into industrial disputes. Opposite parties deny and refute all allegations and averments made in the claim statement by Balmer Lawrie Karamchari Sangh except those that are specifically admitted above to be true. It is stated that M/s Balmer Lawrie & Co., transferred the ownership of its unit manufacturing cylinder and store at Mathura where the workmen were employed to M/s Anant Raj Clay Products Ltd. and gave possession on 11.05.94, the union thereafter cannot claim itself to be an Union for the workmen employed in the concern. This union can not represent those persons who are not its members at present. In any view of the matter the workmen employed in the company cannot claim themselves to be employees of the company today and as such they can not remain member of the union after transfer of ownership to Anant Raj Clay Products Ltd. It is stated that M/s Balmer Lawrie & Co. Ltd. is a company registered under companies Act and is a Govt. of India undertaking. The unit at Mathura was established for manufacturing cylinders and stoves. The cylinders manufactured were supplied to various oil companies. The ownership of the said unit was transferred to M/s Anant Raj Clay Product Ltd. and possession was handed over on 11.5.94. The said unit as registered under Factories Act and was having certified standing orders. It is further stated that the company was supplying manufactured cylinders to IOLCL, BPCL, HPCL and IBP. The stoves manufactured were sold in the market.

14. It is further stated that as a matter of fact, the said unit since its inception witnessed serious I.R. problems, low productivity, poor quality and frequent stoppages which compelled the company transfer the unit. As a matter of fact, the company transferred the ownership of the unit as a going concern to M/s Anant Raj Clay Product Ltd, after exhausting all options with due approval of the company Board. All other allegations have no substance. The company made necessary compliance of Section 25FF of I.D. Act. As a matter of fact the operation in the unit was suspended w.e.f. 12.08.92 as ordered by Bureau of Indian Standard, the company continued to pay wages and other allowances/benefits to the workmen even in "no work situation" till April 94. The company declared lockout for legal and valid reasons and the contention to the contrary has no substance. The allegations are foreign to the matters referred for adjudication. The lock out was not for indefinite period as alleged. The detailed facts have already been stated by the company. The allegations are foreign to matters referred for adjudication.

15. OP No.1 has also submitted in the written statement that the company's transfer of the ownership has got no concern and under Section 6(O) of UP I.D. Act. (Section 25FF of I.D. Act.) offered their continuation of the employees to the buyers, 8 workmen did not accept the employment they were paid their legal dues in accordance with law. The reference of BCPP case has no substance, legality of MOU dated 3.1.94 is beyond the scope of order of reference and without jurisdiction of this Tribunal. OP No.1 with the aforesaid pleadings has prayed that the reliefs sought by the union and workmen can not be granted, the reference is not maintainable and the action of the management is neither illegal nor unjustified.

16. With strong denial of the allegations leveled in the written statement, rejoinder W-12 has been filed by the petitioner union while reiterating the pleas taken earlier in the claim statement. With rejoinder W-12 several annexures have been enclosed.

17. With strong denial of the allegations leveled in the claim statement, Opposite party no. 2 has filed written statement M-15, wherein certain preliminary objections regarding maintainability of industrial dispute have also been raised. Opposite party no. 2 has asserted that no dispute was ever raised and espoused by the applicant union at any point of time, the matter has wrongly been referred to this Tribunal. It has been emphasized that the matter of transfer of ownership of the unit to M/s Anant Raj Clay Project can not be treated as industrial dispute within the meaning of I.D. Act., so the reference is bad in the eyes of law, moreover, the issue of ownership does not find place in 2nd and 3rd schedule of the I.D. Act.

18. Opposite party no. 2 has further stated that unit no. 2 has never terminated the services of members of the applicant union w.e.f. 11.5.1994, there is no pleadings or cogent evidence; moreover option was given to the workmen to continue with the employment of new undertaking or to receive the retrenchment compensation in accordance with law. It has been alleged that the Central Government has acted in arbitrary, illegal and whimsical manner, dispute no. 2 does not come under the purview of the I.D. Act, Hon'ble High Court in its judgment has only observed that the question of transfer of undertaking should have been raised before appropriate forum and not before the industrial court. The government did not appreciate that the dispute has been referred regarding time barred claim of more than 18 years as the industrial dispute. Provision of Section 10 of the I.D. Act., or section 4K of the UP I.D. Act do not apply, reference order is allegedly bad under the provisions of Section 25 FF of the I.D. Act and without appreciating the material available on record, the referring Authority/Central Government has passed a stereotyped order in a

mechanical manner under the garb of the order dated 11.5.2012 passed by the Hon'ble High Court, Allahabad in writ petition no. C 23390/2010.

19. Opposite party no. 2 has asserted that there is no question of respective engagement of the employees in the unit of opposite party no. 1 w.e.f. 11.5.1994 since their services have admittedly been terminated, moreover no opportunity was given to opposite party no. 2 before conciliation officer to place relevant material. Opposite party no. 2 has mentioned the fact of award dated 15.10.97 given by Industrial Tribunal-IV, Agra.

20. Opposite party no. 2 has stressed that it has purchased ownership from OP NO. 1 w.e.f. 11.5.1994 on the basis of MOU dated 3.1.1994 and it was ensured to protect the existing as well as past terms and conditions of the employees working under opposite party no. 1. Prior to execution of the sale deed, letter was circulated by opposite party no. 1 to all the workmen to transfer their services to the buyer and it was also offered that they can also opt for retrenchment compensation as per the provisions of I.D. Act., opposite party no. 2 has stated that as per information, 8 workmen had opted for retrenchment compensation in lieu of the services being transferred to the new employer/opposite party no. 2 which was earlier named as M/s Anant Raj Clay Products Ltd., and new owner as M/s Anant Raj Industries Ltd., further opposite party no. 2 has also informed all the workmen to join duty w.e.f. 11.5.94 and matter was also brought to the notice of DLC, Agra, Asstt. Provident Fund Commissioner, Asstt. Director of Factories, Aligarh also regarding transfer of ownership of the Unit of Opposite Party No. 1.

21. Opposite Party no. 2 has further asserted that the workmen and the union continued with anti industrial activity, Opposite Party no. 2 informed the District Authorities through letter dated 25.4.04 and Labour Authorities as well. Request was made to the workmen to join the duties, 2 of the workmen of Opposite Party no. 1 approached the Hon'ble High Court, Allahabad challenging the MOU and also to quash the letter dated 15.2.1994 but the petition was dismissed by the Hon'ble High Court on 18.7.1994 and then a SLP was filed before the Hon'ble Supreme Court and the said SLP was later on withdrawn by the workmen. The DLC, Agra allowed the applications and passed recovery orders which was set aside by the Hon'ble High Court and the matter was remanded back for fresh order. Order passed by the DLC, Agra was challenged before the Hon'ble High Court through WP no. 23448/1996, writ petition filed by Rashtriya Mazdoor Congress was dismissed by Hon'ble High Court on 19.11.1996, review petition was also dismissed. On the application of the trade union several disputes were referred to the Industrial Tribunal, Agra under Section 4K of the UP I.D. Act. In case no. 29/97 the union has filed an affidavit that they do not want to pursue the reference as a Writ petition is pending in the Hon'ble High Court and consequent to which Presiding Officer of Industrial Tribunal passed the award on 15.10.1997? It was not challenged before any forum and the aforesaid award has attained finality. The matter was also raised before ALC (C) through an application dt. 1.11.2007.

22. Opposite Party no. 2 has stated that neither the workmen nor the applicant union has ever challenged the lock out before any forum and the only challenge was transfer of ownership of the unit and non payment of wages, although the option was given by opposite party no. 2 to the then employees to continue with the new employer but instead of receiving compensation they violated industrial peace and indulged themselves in illegal activities. Certain allegations have further been leveled by opposite Party no. 2 in para 34 to 51 of the written statement. Opposite Party no. 2 has emphasized that the judgments referred by the union are not applicable on the present case, certain matters in the claim statement did not relate to opposite Party No. 1; and the legality and justifiability of MOU dated 3.1.1994 cannot be an issue to be adjudicated upon by this Tribunal and it is beyond the scope of reference as well. Opposite Party no. 2 with the aforesaid pleadings has prayed that applicant union is not entitled to any relief against Opposite Party no. 2 and the reference is liable to be decided negatively.

23. Thereafter rejoinder W-17 was filed along with annexures by the applicant union, with strong denial of the facts mentioned in the written statement, while reiterating the pleas taken in the claim statement of the applicant. Applicant union has specifically asserted that illegal lock out is still enforced and has not been abolished, and the direction given by the Hon'ble Supreme Court are binding.

24. Certain documents have been filed by the management as per list M-22 which has been perused by the other parties also. Further as per list W-26 the workmen have filed certain documents alongwith the copy of the petition and orders of the Hon'ble High Court. Both the parties have perused documents available on record. Copy of the award delivered by the Industrial Tribunal, Agra has also been filed with M-29 by the management.

25. The workmen have adduced affidavit of Sri Shiv Kumar Dwivedi in the evidence. He has been thoroughly cross examined on behalf of both the opposite parties.

26. The management has filed affidavit M-37 of Sri G.N. Mattu. He has been comprehensively cross examined by the workmen.

27. Opposite Party no. 2 filed affidavit of Sri Anil Mahendra as M2-41 consisting of a chart and other facts in support of the written statement filed earlier. He has been cross examined at length on behalf of the workmen Opposite Party

no. 1 as well. Thereafter certain documents pertaining to CMWP etc. have been filed by the workmen before this Tribunal.

28. Arguments of Learned AR for the workmen and Learned ARs for both the opposite parties have been heard at length. Record available before this Tribunal has been scanned thoroughly.

29. Learned AR for the workman union has relied upon the following pronouncements of Hon'ble Courts;

1. 1998 Vol. 80 FLR Page 681(SC) *Municipal Committee.*
2. 2006 Vol. III C.L.R Page 659(S.C.) *Steel Authority of India.*
3. 1981 Vol. 43 FLR Page 258(SC) *Fire Stone Tyre*
4. 2007 LLR Page 183(SC) *Bhogpur Cooperative.*
5. 2015 Vol. 144 FLR Page 830 (SC) *Oshiar Pd.*
6. 2006 LLR Page 747(SC) *State Bank of Bikaner.*
7. 2008 Vol. 108 FLR Page 824 (All) *Engg. Kamgar.*
8. 1995 Vol. 71 FLR Page 712(Pat) *Badarpur Thermal.*
9. 1980 Vol. I LLJ Page 806 (SC) *U.P. Electric Supply.*
10. 2007 Vol. 112 FLR Page 24 (AP) *Mgt. of Divisional*
11. 2008 Vol. I LLN Page 1 (SC) *B.C.P.P.Mazdoor.*
12. 2013 Vol. II C.L.R page 270(Bomp) *Air India Aircraft.*
13. 2002 Vol. 2 SCC Page 333 (SC) *BALCO.*
14. 2009 Vol. II CLR Page 261 (Kar) *M.Shashi Kumar.*
15. 2006 Vol 4 LLN Page 613 I.T.D. C. Case.
16. 1963 Vol. 6 FLR Page 1 (SC) *Anakapallo Cooperative.*
17. 1993 SCC (L&S) Page 180(SC) *National Textile.*
18. 1966 Vol. 12 FLR Page 231(S.C) *Workn. Of U.P. State.*
19. 1980 (40) FLR Page 373(SC) *Santosh Gupta*
20. 2007 Vol. 114 FLR Page 204 (SC) *Hindustan Aeronautics.*
21. 1996 Vol. 73 FLR Page 1722 (SC) *HAL Employees.*
22. 2011 Vol. 131 FLR Page 503(Pun) *Punjab Tractors.*
23. 1997 LIC Page 263(SC) *HMT Ltd.*
24. 1998 Vol. 79 FLR Page 107 (Pat) *Pradeep Lamps.*
25. 2011, Vol. 128, FLR, Page 121(SC) *Kuldeep Singh*
26. 2001 Vol. 90 FLR Page 754 (SC) *Sapan Kumar.*
27. 2016 Vol. 148 FLR Page 586 SC) *Mgt. of Narendra & Co.*
28. 2006 Vol. 110 FLR Page 803(SC) *New Regional.*
29. 2015 LLR Page 160 (SC) *Bhav Nagar Municipal.*

30. Learned AR for the workmen Union has also referred UP Industrial Peace Act.1978 with relevant rules and circular dated 05.01.1998 allegedly issued by opposite party no. 1 and another letter dated 08.09.1997 issued by Labour Department (Central Government) pertaining to scope and authority of Appropriate Government.

31. Learned AR for the opposite party no. 1 has relied on the following pronouncement of Hon'ble Courts;

- a. *General Manager, ONGC. Shikhar Vs ONGC Contractual Workers Union 2008(118) FLR 942 SC.*

- b. *Kuldeep Singh Vs General Manager, Instrument Design Development and Facilities Centre and Another (2011) 2, SCC (L&S) 524.*
- c. *The Chief General Manager, State Bank of India, Lucknow vs B.C. Verma & another 1994 (68) FLR-777 (Alld. High Court).*
- d. *Priya Laxmi Mills Ltd. Vs Mazdoor Mahajan Mandal Baroda (1977 LLJ(I) (S.C.) 22).*
- e. *The Premier Automobiles Ltd. & Others Vs G.R. Sapre and others (1981 (Lab.I.C. Page 271)*
- f. *Nellimarla Jute Mills Karmika Sangham Vs State of Andhra Pradesh (1995(Lab.I.C.1041)*
- g. *Modistone Employees Union Vs Modistone Ltd. & Others (1999 (81)FLR-840)*
- h. *Bhartiya Kamgar Karmachari Mahasangh vs GKW Ltd., & others (1998)(79)FLR-343)*
- i. *Northern Dooars Tea Co. Ltd. Vs Workman of Dem Dima Tea Estate (1964(I) LLJ-436).*
- j. *The Statesman Ltd. Vs Their Workman (AIR-1976SC 758).*
- k. *Steel Authority of India Ltd. and others Vs National Union Water Workers and others (2001)7, S.C.C.,1.*
- l. *Delhi International Air Port Pvt. Ltd. Vs Union of India and others (2012) 1 SCC (L&S) 133*
- m. *Virendra Bhandari Vs Rajasthan State Road Transport Corporation & Others (2002 (94) FLR-624 (SC)*
- n. *Hindustan Motors Ltd. Vs Janardhan Singh & Others 2002(92) FLR-75 Calcutta High Court.*
- o. *BCPP Mazdoor Sangh & Another Vs NTPC & Others, Civil Appeal No. 678 of 2006 decided on Oct.11,2997.*
- p. *Sunil Kumar Ghosh & Others Vs K. Ram Chandran and others (2012) 2 SCC (L&S) 921.*
- q. *New Horizon Sugar Mills Vs Ariyur Sugar Mills Staff Welfare Union & others (2011)1 SCC (L&S) 708.*
- r. *Punjab National Bank vs Its workman; Civil Appeal No. 389 and 390 of 1962 decided on Jan.24,1963.*
- s. *Workmen through Hindustan Lever Sabha Vs Hindustan Lever Ltd. (2008(118)FLR-957).*

32. Learned AR of opposite party no. 2 has emphasized the principles laid down by the Hon'ble Courts in the following cases:

1. (1975), 4, SCC Punjab Cooperative Bank Ltd. Vs R.S. Bhatia Page 696.
2. (1976), 2, SCC Rohtas Industries Ltd. Vs Rohtas Industries Staff Union, page 82.
3. (1975) 4, SCC Bombay Gas Co. Vs Jagannath Pandurang page 690.

32. Directions given by Hon'ble Supreme Court and Hon'ble High Courts are very relevant and have got binding effect. However, it is quite pertinent to keep in mind that the principles propounded by Hon'ble Courts, hereinabove, have to be looked into taking into account the facts and circumstances of the matter in issue.

33. The petitioner/workman's union has emphasized on the alleged facts that the lock out notice was prepared fraudulently in consultation with legal expert, absolutely false facts mothered therein. It has been submitted that lock out cannot be stretched for indefinite period, no FIR was lodged by the management with the Police Station neither any compliant was made to the District Magistrate, Mathura nor any information was sent to the Central Government labour department. Also, before revoking the lock out notice and without making any payment of the dues for the lock out period, the unit was sold by the opposite party No. 1 to the opposite party No. 2, illegally. It has been emphasized that execution of sale has been done without any rationality or morality or legal right.

34. While strongly refuting the allegations, the opposite party No. 1 has submitted that the issue of non re-engagement of the workmen w.e.f. 11.05.94 is not industrial dispute since the OP No. 1 has terminated their services w.e.f. 11.05.94 and as such the question of espousing and referring the alleged dispute does not arise and there was no question of re-engagement by the OP No. 1 as the OP No. 1 was not the employer on 11.05.94 in view of the transfer of undertaking. Further, the matter in issue cannot be adjudicated at this forum. It has been alleged by the management that the so called dispute has been sent after 18 years as the matter under dispute pertains to the year 1994. It has been submitted by the opposite party that due to serious industrial relation problems, low productivity, poor quality of the product, resulting into frequent suspension of production by BIS, the Unit faced financial loss; and accordingly decision was by the competent authority to transfer the ownership of the unit to the OP No. 2, with a pre-condition of transferring the services of all the workers of the Unit on existing terms and conditions maintaining continuity of

service in accordance with provisions of the Industrial Disputes Act. Accordingly, the memorandum of understanding was arrived at between the company and OP No. 2 and a letter dated 15.2.94 was issued by the Company to all ex-workmen of the Company bringing to their knowledge about the proposed transfer. It has been pointed out that thereafter, upon execution of the transfer deed, the Company wrote to all the workers informing them that a deed has been executed and their services will be transferred to the OP No. 2 on 11.05.94. The Company also informed the workmen that if they do not wish to accept the transfer of their services to the OP No. 2, they can opt for retrenchment compensation in accordance with the provisions of the ID Act; and accordingly, only 8 workmen opted for retrenchment compensation. It has been submitted that rest of the workmen and union resorted to all illegal activities and destroyed property of the Company and their agitation turned violent. The workmen filed a writ petition before Hon'ble High Court, Allahabad praying to quash the letter dated 15.02.94 and to quash the memorandum of understanding between the company and OP No. 2; however the petition was dismissed by the Hon'ble High Court vide order dated 18.07.94. The workmen filed a SLP and a writ petition under Article 32 of the Constitution of India before the Hon'ble Supreme Court to quash the memorandum of understanding and sale deed with the OP No. 2. The Hon'ble Supreme Court dismissed the SLP and on request of the Union, allowed the writ petition to be withdrawn.

35. Sri Shiv Kumar Dwivedi, Joint Secretary of the workmen's union in his cross-examination dated 22.08.2014 has stated that he has no knowledge about cancellation of sale deed by any lower court. He further stated that the transfer of the unit has neither been declared illegal nor has been declared legal by any court. He also denied of having any knowledge of the letter dated 12.04.1994 through which all the employees were informed that the employees who do not wish to go with OP No. 2 may receive compensation under Section 6(N). The witness also denied of having written any letter by the union dated 24.02.94 about threatening the management of strike and agitation etc. He also denied letter dated 01.03.94 (serial No. 30 of M-19). Mr. Shiv Kumar Dwivedi in his further cross-examination has avoided replying regarding acceptance of option by some employees and for receiving the retrenchment compensation.

36. Further, the conditions leading to lock out and sale of the unit has been elaborated by the witness of the OP No.1, Mr. G.M. Mattoo, Sr. Vice President (HR) who stated that the unit was severely affected due to very low productivity, confrontation and non-co-operation of the of the workmen, high wages and overhead costs, frequent suspension of manufacturing activity by Bureau of Indian Standards, lack of industrial culture amongst the workmen. He stated that this situation led to sale of the unit with an option to the workmen either to go with the buyer or to receive retrenchment compensation as per provisions of ID Act.

37. Mr. Anil Mahindra, Vice President has appeared as witness on behalf of the opposite party No. 2 who has thoroughly been cross-examined by the authorized representative of the workmen's union. He stated that as per terms for the sale deed the services of 227 workmen were kept continued and they were taken transferred as per conditions given in memorandum of understanding. He stated that transfer was executed as per terms and conditions given in the memorandum of understanding. He has shown his ignorance regarding question of jurisdiction of disputes with respect to the workmen pertaining to transfer of their services. He could not answer as to whether the information regarding transfer was given to the Labour Commissioner (Central) or not. The witness adduced by the OP No. 2 has admitted that the interests of the employees of the union were duly protected and no undue practice was ever adopted.

38. Having given my thoughtful consideration to the rival submission of the learned authorized representative of the parties and respective documentary and oral evidence, adduced by them in support of their stand, it is quite clear that the OP No. 1 decided to sale the Unit under question due to heavy financial loss and deterioration of quality of production, leading to suspension of manufacturing by the Bureau of Indian Standards. The workmen's union has alleged that the services of the workmen have been retrenched due to lock out declared by the management and subsequent sale and transfer of property. In this regard, the submissions of the opposite party No. 1 seems justified that the workmen were given notice prior to transfer of the Union of the decision of sale of the unit to the OP No. 2 with an option either to continue their services with the new employer/OP No. 2 or to receive retrenchment compensation as per provisions of the Act. In this regard, the OP No. 1 has specifically pleaded and proved through oral evidence that as many as 8 workmen opted for retrenchment compensation, on the contrary the union's witness has shown his ignorance to the fact and tried to evade the question during his cross examination. This goes to show that the management took adequate steps to safeguard the interests of the workmen while sale of the unit/transfer of the unit to the OP No. 2.

Further, as per provisions contained in the Section 2(k) of the Industrial Disputes Act, 1947, the definition of an 'industrial dispute' is as under:

2. (k) "industrial dispute" means any dispute or difference between employers and employer, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

In the instant case the workman has disputed the validity of memorandum of understanding/sale/transfer of the unit to OP No. 2; but the memorandum of understanding has been executed between OP No. 1 and OP No. 2 and the workmen's union is not a party to it, therefore, there is no dispute between the two managements over the validity of memorandum of understanding; also, the interests of the affected section i.e. the workman, have adequately been watched by the said memorandum of understanding, therefore, it is not open for the workmen's union to dispute its validity; also this Tribunal lacks the jurisdiction on the issue as it does not fall within the definition of 'industrial dispute' as provided in Section 2(k) of the Act.

39. Accordingly, in view of the facts and circumstances of the case and discussions made hereinabove, I am of considered opinion that the workmen's union has failed to establish that there was termination of services of the workmen under question and that the memorandum of understanding, executed between OP No. 1 & OP No. 2 was against the interests of the workmen and is within the jurisdiction of this Tribunal. Hence, the reference is adjudicated against the workman's union; and as such, I come to the conclusion that the workmen concerned are not entitled to any relief.

40. Award as above.

LUCKNOW

17th February, 2017

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 640.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स स्टील अथॉरिटी ऑफ इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 1/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-26011/35/2015-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 640.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2016) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Steel Authority of India Limited and their workman, which was received by the Central Government on 01.03.2017.

[No. L-26011/35/2015-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 21st February, 2017

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 1/2016

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Steel Authority of India and their workman)

BETWEEN :

The President
Steel Plant Employee's Union
CITU and Steel Workers Federation of India
C-27/1, Mohan Nagar
Tamil Nadu
Salem-636030

: 1st Party/Petitioner Union

AND

The General Manager (P&A) : 2nd Party/Respondent
 Steel Authority of India Ltd.
 Salem Steel Plant
 Salem-636013

Appearance :

For the 1st Party/Petitioner : In Person
 For the 2nd Party/Respondent : Sri Jagdish Prasad, AGM (Law)

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-26011/35/2015-IR (M) dated 14.12.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the Management of SSP, SAIL is justified in unilaterally deciding to conduct secret ballot election for the Unions functioning in their establishment and the action of the Management is justified in terminating all privileges and benefits extended to its Unions and its Office Bearers? If so, to what relief the union is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 1/2016 and issued notices to both sides. The petitioner has entered appearance in person and the Respondent through authorized representative and filed Claim and Counter Statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner are as below:

By letter dated 13.07.2015 the Respondent requested the Assistant Labour Commissioner, Chennai to conduct election through secret ballot to arrive at the recognition of the Union in Salem Steel Plant. The Respondent had withdrawn the recognition of the Petitioner Union and had terminated all the privileges and benefits extended to the Petitioner Union and its Office Bearers. An Award may be passed restoring the recognition status of the Petitioner Union and also restoring all the privileges and benefits that were enjoyed by the Petitioner Union as on 11.07.2015.

4. The Respondent has filed Counter Statement contending as below:

The dispute raised by the petitioner is not an Industrial Dispute within the meaning of Section-2(k) of the Industrial Disputes Act. No Industrial Dispute exists between the Petitioner Union and the Respondent. Recognition of a Union falls within the purview of the employer under the Code of Discipline. The Code of Discipline lays down certain criteria for recognition of the Union by the Management. All the Registered Unions in the Respondent establishment have given their written consent for holding election through secret ballot system, in the meeting held on 10.08.2015. The decision to conduct election through secret ballot has been taken for maintaining industrial peace and harmony. Two Unions were recognized by the Management in the year 1981 and 1990 respectively. Thereafter there was no verification of the membership of the Unions. The procedure for giving recognition to the Union after election is just and fair. Secret Ballot System is more scientific when compared to other system of election. It is open to all the Unions including the Petitioner Union to prove their majority by facing the election. The petitioner is not entitled to any relief.

5. In the rejoinder filed the petitioner has denied the allegations in the Counter Statement and has reiterated its case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W12 and Ext.M1 to Ext.M15.

7. **The points for consideration are:**

- (i) Whether the Respondent is justified in deciding to conduct election by secret ballot for the Unions functioning in the establishment?
- (ii) Whether the Respondent is justified in terminating the privileges and benefits extended to the Union and its Office Bearers?
- (iii) What, if any are the reliefs to which the petitioner is entitled?

The Points

8. The petitioner is a Union recognized by the Respondent in its establishment. As seen from the Claim Statement the Respondent addressed the Asstt Labour Commissioner (Central), Chennai to conduct election through secret ballot among its workmen for the purpose of recognition of Union. Consequently the Respondent has withdrawn all the privileges and benefits that were so far extended to the Petitioner Union and its Office Bearers as well. This action of the Respondent is challenged by the Petitioner Union. The Respondent, apart from contending that the decision to conduct election by secret ballot is in accordance with the law has also stated that the dispute is not maintainable before this Tribunal as it did not come under Section-2(k) of the Industrial Disputes Act.

9. WW1, the General Secretary of the Petitioner Union has given affidavit in support of the case. Though the Claim Statement itself is a very short one without giving the details, the Proof Affidavit is an elaborate one. It is seen from the Affidavit that the Petitioner Union has been functioning as a recognized union in the Respondent establishment for more than 20 years. It is claimed in the affidavit that the Petitioner has entered into several settlements with the Respondent in its capacity as the recognized union. According to WW1, the Management has decided to conduct election through secret ballot on the ground that the Petitioner Union was not duly elected by the workmen of the Respondent. According to the Petitioner the decision for election by secret ballot was taken because of the strike notice issued by the Petitioner Union on 11.07.2015. It is further stated by the witness that the Management has withdrawn the facilities like telephone and also denied special casual leave that was so far given to attend conciliation meetings and has also refused to sanction tour to attend All India Federation of Steel Workers.

10. MW1, the Assistant General Manager (Personnel) of the Respondent has given evidence in support of the Respondent. According to MW1, the Petitioner Union was recognized in the year 1990. No verification was done thereafter. The decision of the Management to conduct election through Secret Ballot System is with the intention to maintain industrial peace and harmony and also in accordance with the guidelines of the Supreme Court of India. It is further stated that all the registered Trade Unions of the establishment have given their consent for holding election through Secret Ballot System.

11. On consideration of the facts and evidence it is seen that there is no reason for the petitioner to challenge the decision of the Respondent to conduct election by secret ballot. It could be seen from Ext.M5-the Minutes of the Meeting held on 10.08.2015 that consent was given by the Unions to hold election by secret ballot system. This contains the name and signature of WW1 also. Ext.M5 is of course subsequent to the letter of the Respondent to the Asstt. Labour commissioner (Central) asking to conduct the election. However, having consented for the election grievance for the petitioner on this count does not exist anymore.

12. Even otherwise there was no reason for the petitioner for grievance. The recognition of the Petitioner union was done 20 years ago. The Union has been enjoying all the benefits and powers of a recognized Union. It is high time that the petitioner holds membership of a majority number of workmen in the Respondent establishment. Election by secret ballot system is the mode of election recognized by the Supreme Court. Such a system gives more credence to the election. So there is no scope for the Petitioner to raise a dispute on account of this.

13. The next grievance of the petitioner is that all the benefits that were enjoyed by the Union as a recognized union were withdrawn by the Respondent after it decided to conduct election for recognition of Unions. The case that is set up by the Respondent is that it was on account of austerity measures such a decision has been taken. The recognized unions seems to have been provided with telephone facility and also Special Casual Leave for attending conciliation meetings and also other meetings. All these were taken away by the Respondent. This was done unilaterally by the Respondent without any notice. Though it is stated that the recognition of the Petitioner Union is withdrawn consequent to the decision to conduct election even thereafter the Petitioner was invited for meetings. It was only fair that facilities that were enjoyed by the Petitioner Union were retained till election is conducted and the name of the new recognized union are is declared.

In view of the above discussion an Award is passed as below:

The Respondent shall continue to provide the facilities that were enjoyed by the Petitioner Union till election is conducted and the name of the new recognized union is declared. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st February, 2017)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : WW1, Sri K.P. Suresh Kumar

For the 2nd Party/Management : MW1, Sri M. Subbu Rao

Documents Marked :**On the petitioner's side**

Ex.No.	Date	Description
Ext.W1	15.04.2007	Bilateral Agreement on Performance Incentive Scheme
Ext.W2	04.04.2015	Represented various issues of workmen before the Chairman, SAIL
Ext.W3	08.07.2015	Circular issued by the management of SAIL, Salem Steel Plant on Reconstitution of Board of Trustees of Salem Steel Provident Trust as per the EPF Scheme, 1952
Ext.W4	11.07.2015	Strike Notice and statement of the case by our Union
Ext.W5	13.07.2015	Communication to our Union by the management of SAIL, Salem Steel Plant to attend SA-8000 Workers Representatives Meeting
Ext.W6	13.07.2015	Management of SAIL, Salem Steel Plant requested the ALC (C) to ascertain recognition of Union through secret ballot
Ext.W7	14.07.2015	Management of SAIL, Salem Steel Plant requested the ALC (C) to ascertain recognition of union through secret ballot and intimating the formation of ad-hoc committee of workmen
Ext.W8	20.07.2015	Conciliation notice by the RLC (C) against strike notice and advice the management and union to restrain from their stand
Ext.W9	31.07.2015	Dy. Chief Labour Commissioner (C), Chennai Communication for joint discussion on strike notice and advice the management and union to restrain from their stand
Ext.W10	03.09.2015	Management reply stating that there is no change in status with respect to Union
Ext.W11	14.09.2015	Proceedings of conciliation and advice of the RLC (C) to advising the management to restore all the facilities and privileges to the Union prior to the strike notice dated 11.07.2015
Ext.W12	15.09.2015	Letter by the GM (P&A), Management of SAIL, Salem Steel Plant to Dy. CLC, Chennai

On the Management's side

Ex.No.	Date	Description
Ext.M1	01.06.1958	Code of Discipline issued by the Ministry of Labour and Employment, Government of India, New Delhi
Ext.M2	13.10.1981	Letter of DCPM to the Secretary of the SSNEU regarding recognition the Union in the SSP/SAIL
	08.07.1986	Joint Commissioner Labour letter to the management, SSP/SAIL regarding recognition to the petitioner's union in the SSP
	16.02.1990	Letter of the management to the petitioner union regarding recognition in the SSP
Ext.M3	15.07.2015	Representation of the Petitioner Union to the GM (P&A) SSP/SAIL
	17.08.2015	Notice of the ALC (C) Chennai to the GM (P&A) seeking comments of the Management on the representation of the petitioner
	24.08.2015	Complaint of the petitioner union before RLC (C) Chennai regarding unfair labour practice of the management

Ext.M4	16.07.2015	Letter written by the management to the Chief Labour Commissioner (Central), New Delhi requesting to conduct election through secret ballot system
Ext.M5	10.08.2015	Consent given by all the Unions operating in the SSP/SAIL to the DCL (C), New Delhi to hold a election through secret ballot system
Ext.M6	13.08.2015	DCL (C) Chennai letter to GM (P&A) for conducting Secret Ballot Election in the Salem Steel Plant and seeking details information on Trade Unions in SSP/SAIL
	03.09.2015	DCL (C), Chennai letter to all the Trade Union operating in SSP/SAIL a copy of which is forwarded to ED, SSP for conducting Secret Ballot Election in the Salem Steel Plant and seeking appointment of Returning Officer
	14.10.2015	DCL (C) Chennai letter to CLC (C) New Delhi for conducting Secret Ballot Election in the Salem Steel Plant and seeking appointment of Returning Officer
Ext.M7	14.08.2015	Management letter to all the unions including Secretary of the Petitioner's Union seeking details information about the Unions
Ext.M8	22.08.2015	Information regarding registration of the Trade Union in Salem Steel Plant to DCLC (C) Chennai by the GM (P&A) SSP/SAIL
	24.08.2015	Deputy Commissioner of Labour (Registry Authority) Salem letter to the Asstt. General Manager (Personnel) SSP/SAIL regarding status of operating unions in SSP/SAIL
Ext.M9	-	Information to the DCLC (Chennai) by GM (P&A) regarding status of the cases pending in the High Court, Madras w.r.t. recognition of Unions in SSP/SAIL
Ext.M10	-	GM (P&A) consent letter to the CLC (C) New Delhi regarding conducting election through Secret Ballot System
Ext.M11	09.04.2007	SAIL Corporate Office's guidelines on Incentive Scheme
Ext.M12	08.11.2014	Request letter of Salem Urukklai Thozhilar Munnetra Sangam to the Director (Personnel) SAIL Co. Office for conducting Election through Secret Ballot System
	29.04.2015	Request letter to Salem Urukklai Thozhilar Munnetra Sangam to the Chairman SAIL for conducting Election through Secret Ballot System
Ext.M13	08.02.2015	Attendance Sheet of the Apex Committee Meeting on Production/Productivity.

नई दिल्ली, 2 मार्च, 2017

का.आ. 641.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारतीय जीवन बीमा निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलूर के पंचाट (संदर्भ संख्या 3/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-17012/26/2012-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 641.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2012) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 23.02.2017.

[No. L-17012/26/2012-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

DATED : 13th February, 2017

PRESENT : Shri V. S. RAVI, Presiding Officer**ID No. 3/2012****I Party**

Sh. M.D. Seshadri,
No.6, Guru Krupa, III Cross,
Devappa Garden, RMV II Stage,
Bangalore – 560094

II Party

1. The Chairman, LIC of India, Central Office, “Yogakshema”, P.B.No. 19953, Jeevan Bheema Marg, MUMBAI-400 021.
2. The Disciplinary Authority/ The Sr. Divisional Manager, LIC of India, Division II, Indiranagar, 2nd Stage, B’lore-38.
3. The Appellate Authority/ The Zonal Manager, LIC of India, South Central Zone, Saifabad, HYDERABAD.-500 063

CR No. 21/2013**I Party**

Sh. M.D. Seshadri,
No.6, Guru Krupa, III Cross,
Devappa Garden, RMV II Stage,
Bangalore – 560094

II Party

The Sr. Divisional Manager,
LIC of India, Division II,
Indiranagar, 2nd Stage,
Bangalore.-560038.

COMMON AWARD

1. ID No. 3/2012 :- The 1st party (Sh. M.D Seshadri) has filed ID No. 3/2012 by stating that he has worked as a Development Officer in LIC of India, Koramangala Branch, Bangalore, since 1993. Further, the 1st party has prayed to set aside/quash the orders of Removal of party No.1, by Party No.2(a) and also, to reinstate the 1st party with all consequential benefits. However, in the statement of objection filed by the management, the preliminary objection, regarding jurisdiction has been raised and also it is mentioned, that the 1st party is not a workman under the provision of ID Act and hence, this Tribunal lacks jurisdiction to try the matter.

2. CR No. 21/2013 :- The Central Government vide Order No.L-17012/26/2012-IR(M) dated 02.05.2013 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the management of LIC of India, Bangalore in imposing the penalty of removal from service with penalty of Rs. 20,000 and 10,000 on Shri M.D. Seshadri, Development Officer w.e.f. 26/06/2010 is justified and legal? To what relief the said workman is entitled to ?”

3. Further in the affidavit dated 17.08.2013 filed in CR 21/2013, the 1st party/Sh. Seshadri has categorically stated that the matter pertaining to above mentioned CR No.21/2013 is one and the same as that of the ID No.03/2012 and also requested to take the ID No.03/2012 with CR No.21/2013, jointly, in the interest of the justice and equity. Further a memo dated 05.07.2013 has been filed in the CR No.21/2013 by the 1st party to treat the claim statement filed by the 1st party in ID No.03/2012 as part and parcel of CR No. 21/2013 to avoid the repetition in the interest of justice. Accordingly, the present common award is passed in the above mentioned matters.

4. Further in the claim statement filed in the ID No.03/2013 at page 1, it is as stated as follows with regard to jurisdiction of this Tribunal, “The party no.1 is residing at Bangalore in the place where he worked as development officer of LIC and he has filed the case to quash/set aside the order of removal of service issued by the opposite party and the claim statement is within the Jurisdiction of this Tribunal.” However, in the statement of objection filed by the 2nd party management to the claim statement filed by the 1st party, it is specifically stated in para No’s 2 and 3 as follows:- “2nd party wishes to raise the preliminary objection regarding jurisdiction, which may be tried as preliminary issue, since the same goes to the root of the matter, and this Tribunal lacks jurisdiction to try the matter. 1st party is not a workman under the provisions of ID Act. On this score also, claim is liable to be rejected.”

5. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matters as follows:- “Whether the 1st party, development officer of LIC of India is not a

workman under the provisions of Industrial Disputes Act, and consequently, this Tribunal lacks jurisdiction to try the above said matters?"

6. Point :- On the said preliminary issue both parties have been allowed to extensively argue and also, to make their submissions with the relevant citations. In the claim statement, the 1st party has categorically admitted that he has worked as Development Officer of LIC of India, Kormanagala Branch, Bangalore since 1993 and he has developed hundreds of Agents and he has got ample experience of 15 years in LIC and also the 1st party has worked as No.1 Development Officer in Koramangala Branch, Bangalore earning more than 18 lakhs income in the Assessment Year 2008-2009. Further, the 1st party has requested to set aside the orders of Removal from service passed by the 2nd party and also requested to direct the 2nd party to reinstate party No.1, with full back wages and cost. However, in the statement of objection, the 2nd party has categorically stated that the 1st party is not a workman under ID Act and hence, this Tribunal lacks the jurisdiction to try the present matter. In the affidavit on the preliminary issue dated 06.06.2014, also, the 1st party has admitted that he has served as Development Officer, LIC of India, since 1993 and during his career as a development officer, he has developed hundreds of agents. Hence, it is crystal clear, that the 1st party/ Sh. Seshadri has served LIC as Development Officer from 1993, for more than 15 years.

7. Further, In the judgment filed on behalf of 2nd party, the Hon'ble Supreme Court of India, Civil Appellate Jurisdiction, Civil Appeal No's. 5690-5691 of 2010 dated 11th March 2015, by Hon'ble Mr. Justice Dipak Misra. J and Hon'ble Mr. Justice, Prafulla C. Pant, it is clearly held as follows:- "In these appeals, the seminal question that emerges for consideration is whether the High Court of Allahabad in Miscellaneous Writ Petition No.21164 of 1998 has justifiably overturned the award passed by the Central Government Industrial Tribunal-cum-labour Court, Kanpur (for short, the Tribunal) on the singular foundation that the aggrieved persons, at whose instance a reference was made under Sections 10(1) and 2(a) of the Industrial Disputes Act, 1947 (for brevity, 'the Act'), was not adjudicable by the Tribunal, for the aggrieved persons were working as Development Officers in the Life Insurance Corporation (LIC) and, therefore, the Labour Court had no jurisdiction to deal with the lis in question." Further, it is also specifically held at para 16 of page 15 as follows:- "As we find, the said judgment has been rendered in ignorance of the ratio laid down by the Constitution Bench in H.R. Adhyantya(1995) 5 SCC 737 and also principle stated by the three-judge Bench in Mukesh K. Tripathi (2004)8 SCC 387, that the decision in S.K. Verma (1983) 4 SCC 214 is not a precedent, and hence, we are compelled to hold that the pronouncement in R. Suresh(2008) 11 SCC 319 is per incuriam. We say so on the basis of the decisions rendered in A.R. Antulay Vs. R.S. Nayak (1988) 2 SCC 602, Punjab Land Development & Reclamation Corpn. Ltd Vs. Labour court (1990) 3 SCC 682, State of U.P. Vs. Synthetics and Chemicals Ltd (1991)4 SCC 139 and Siddharam Satlingappa Mhetre Vs. State of Maharashtra (2001)1 SCC 694. Para 17, in view of the aforesaid analysis, we conclude and hold that the Development Officers working in the LIC are not the Workmen under Section 2(s) of the Act and accordingly we do not find any flaw in the judgment rendered by the High Court." In the present matter also, it is absolutely clear that the 1st party, who has already served for more than 15 years as Development Officer in the LIC is not a workman under Section 2(s) of ID Act and consequently, the present Tribunal lacks the jurisdiction to entertain the issues raised by the 1st party. Further, it is found that the above mentioned judgement of the Hon'ble Supreme Court is squarely applicable to the present case and the 1st party is unable to disprove the same, though sufficient and adequate opportunities have been granted to the 1st party about the said judgement, passed by the Hon'ble Supreme Court. In the light of the above mentioned Hon'ble judgement of Supreme Court, the judgements submitted on behalf of the 1st party are not helpful to the case of the 1st party. Further, this Tribunal is not expressing any opinion on the various other issues raised by both the parties. In the written arguments of the 1st party on preliminary issues filed by the 1st party, namely the above mentioned judgements of Sh. S.K. Verma, and also Suresh case have been relied upon. However, in the above mentioned Civil appeal, the Hon'ble Supreme Court has categorically held that the said Sh. S.K. Verma judgement is not a precedent and the said Sh. R. Suresh judgement in per incuriam. Accordingly, it is seen that both the judgements relied upon by the 1st party has been suitably answered by the above mentioned Hon'ble Supreme Court in the Said Civil Appeal itself. Further in the light of the above mentioned judgement of the Hon'ble Supreme Court in Civil appeal No.s.5690-5691 of 2010, in the case of Chauharya Trupathi and others Vs. LIC of India & others case, the other submissions and citations filed on behalf of the 1st party are not applicable to the peculiar facts and special circumstances of the present matters.

8. On a totality of the facts and circumstances, this Tribunal is of the firm and clear opinion that, the present Tribunal clearly lacks the jurisdiction to entertain the present matter of this nature. Further, it is open to the 1st party to urge all the contentions before the proper, competent and appropriate Judicial Forum/ Tribunal/ Court and also keeping open the same, the present matters have to be disposed off on the limited ground of jurisdiction point alone.

9. Further this Tribunal is of the opinion that the 1st party will not fit in with the definition of workman as defined under Section 2(s) of the ID Act so as to attract other positions of the said Act and accordingly, the dispute raised by the 1st party, in respect of removal from service as Development Officer of LIC, cannot be an Industrial dispute as defined under Section 2(k) ID act of 1947, giving raise to jurisdiction of this Tribunal for adjudication. Further, the dispute raised by the 1st party in respect of his removal from the service of Development Officer LIC is not an Industrial Dispute as defined under Sec 2(k) of ID Act, as such this court has no jurisdiction of adjudicate upon such

dispute. Further, the 1st party citations have been specifically answered by the above mentioned Hon'ble Supreme Court judgment dated 11.03.2015 by the concrete observation that the decision in S K Sharma (1983) 4 SCC 214 is not a precedent and hence the Hon'ble Supreme court has been compelled to hold that the pronouncement in R. Suresh (2008) 11 SCC 319 is per incuriam. Hence, it is seen that the citations relied on by the 1st party have been sufficiently answered by Hon'ble Supreme Court. Further, in the judgement relied on, by the 1st party, in the case of Dashrath Rup Singh Rathod Vs. State of Maharashtra (Criminal Appeal No. 2287 of 2009) the Hon'ble Supreme Court has observed as follows only:

“The facts constituting cause of action do not constitute the ingredients of the offence under Section 138 of Negotiable Instrument Act and on the same cause of action accrues to the complainant, the jurisdiction of the Court to try the case will be determined by reference to place, where the cheque is dishonoured.” However, in the light of the above mentioned judgement of the Hon'ble Supreme Court dated 11.03.2015, the above mentioned judgement is also not helpful to the case of the 1st party. Further, based upon the above mentioned Hon'ble Supreme Court Judgement dated 11.03.2015 and also taking into consideration the points and principles laid down by the Lordships of the Hon'ble Supreme Court, this Tribunal has no other alternative, except to follow the judgement of the Hon'ble Supreme Court dated 11.03.2015. wherein, it is held that this Tribunal has no jurisdiction to entertain the grievances of the 1st party, namely, Development Officer of the LIC and therefore, the 1st party cannot seek the protections and also reliefs, under the provisions of ID Act. At the same time, this Tribunal is not expressing any opinion on other issues raised by both sides, as this Tribunal lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the 1st party to raise the dispute before the proper competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Tribunal in the best interest of justice, equity, and fair play, and the matters have to be disposed of. Accordingly, this point is answered. Hence the following Award is passed:-

AWARD

This Tribunal under the provisions of Industrial Disputes Act has no jurisdiction to entertain the disputes raised by the 1st party, namely, Development Officer of LIC of India, particularly, in the light of the judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 5690-5691 of 2010 dated 11th march 2015 by Hon'ble Justice Sh Dipak Misra. J and Mr. Justice. Prafulla C. Pant, and the present matters suffer for want of jurisdiction before this Tribunal and liberty is given to the 1st party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Tribunal has not expressed any opinion regarding the various other issues raised by both the parties, as the present matters have been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 13th February, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 642.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी. सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 729/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30011/69/2001-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 642.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 729/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30011/69/2001-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th February, 2017

Reference: (CGITA) No. 729/2004

1. The Group General Manager (Projects),
ONGC Ltd., Ankleshwar Project,
Ankleshwar (Gujarat)
2. M/s Globe Detective Services,
0-3-4, 1st Floor, Golden Trade Centre,
Ankleshwar (Gujarat) – 393002

...First Party

V/s

The General Secretary,
ONG Mazdoor Sangh
C/o
Bhartiya Mazdoor Sangh,
Nr. Asian Paint Chokdi, GIDC,
Ankleshwar (Gujarat)

...Second Party

For the First Party : Shri C.S. Naidu Associates

For the Second Party : Shri Amrish Patel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30011/69/2001-IR(M) dated 04.07.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union to absorb/regularize the services of Shri Gordhan S. Machi and 7 others as permanent and direct employees of ONGC Ltd., Ankleshwar from the date of their entry in the services as contractual workman and all other benefits as enjoyed as the regular employees of ONGC Ltd., is legal, proper and justified? If so, to what relief the concerned workmen are entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 04.07.2001. The second party submitted the statement of claim Ex. 9 on 14.02.2002. The first party submitted the written statement Ex. 14 on 03.05.2002. Later the reference was transferred to this tribunal on 15.01.2008. Though the second party had been absent since long but on 21.06.2016, Four of the workman out of 8 workmen through second party union namely

- i. Raj Yogendrasinh Balvantsinh
- ii. Patel Narsangbhai Bhikhabhai
- iii. Chasatiya Sandipsinh Prabhatsinh
- iv. Vasava Naginbhai Parsottambhai

Moved an application Ex. 50 annexed with 51 for withdrawal of the reference and to delete their names from the reference. The said application was allowed and the names of the aforesaid workmen were deleted from the reference. The references as regards remaining workmen was listed for 30.08.2016 but despite giving number of dates, the second party union or remaining workmen failed to lead their evidence. Thus it appears that the second party has not willing to prosecute the case.

2. It is noteworthy that the matter relates to the outsourcing of the workmen by the first party employer ONGC through a contractor.

3. Therefore, the reference is disposed of in the absence of the evidence of the remaining second party workmen with the observation as under: “the demand of the union to absorb/regularize the services of Shri Gordhan S. Machi and 3 others as permanent and direct employees of ONGC Ltd., Ankleshwar from the date of their entry in the services as contractual workman and all other benefits as enjoyed as the regular employees of ONGC Ltd., is not legal, proper and justified.”

4. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 643.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स काण्डला पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 962/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-37012/2/1993-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 643.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 962/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Kandla Port Trust and their workman, which was received by the Central Government on 01.03.2017.

[No. L-37012/2/1993-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th February, 2017

Reference: (CGITA) No. 962/2004

The Secretary,
Kandla Port Trust,
A.O. Building, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The Deputy Jan Secretary,
Kandla Port Karamchari Sangh,
T.C. X. – S 24, Gandhidham,
Kutch (Gujarat) – 370201

...Second Party

For the First Party : Shri K.V. Gadhia

For the Second Party : Shri S.N. Gandhi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37012/2/93-IR(Misc.) dated 01.03.1994 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Kandla Port Trust in terminating the services of Shri P.V. Parmar, Khalasi is justified? If not what relief the workman is entitled to?”

1. The reference dates back to 01.03.1994. The second party submitted the statement of claim Ex. 2 on 16.07.1995 in the Industrial Tribunal, Rajkot. The first party submitted the written statement Ex. 7 on 25.02.1997 that too in Industrial Tribunal Rajkot. Later the reference was transferred to this tribunal on 19.10.2010. Since then the workman has been absent to lead evidence despite appearance of the first party. On 10.03.2011, both the parties were issued notices to appear on 19.04.2011. The first party submitted the vakalatpatra of K.V. Gadhia Associates, Solicitor firm on 06.07.2011 but the second party failed to appear since then and also failed to lead evidence. Thus it appears that the second party has not willing to prosecute the case.
2. Therefore, the reference is disposed of in the absence of the evidence of the second party workman with the observation as under: “the action of the management of Kandla Port Trust in terminating the services of Shri P.V. Parmar, Khalasi is justified.”
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 644.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1306/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/82/2000-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 644.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1306/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/82/2000-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference: (CGITA) No. 1306/2004

1. The Group General Manager (P),
ONGC Ltd., Hazira Project, P.O. Bhatpore,
Surat (Gujarat) - 394518
2. M/s Sagar Construction,
Near Tapi Bridge, Tax Plaza,
Kagdaila ONGC Road,
Surat (Gujarat) – 394518

...First Party

V/s

Shri Chandrakant M. Patel,
At. Bhatpur, Taluka Choryasi,
Surat (Gujarat)

...Second Party

For the First Party : Shri N.B. Shah

For the Second Party : Shri S.T. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/82/2000-IR(M) dated 05.07.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the contract between the management of ONGC Ltd., Surat and the contractor M/s Sagar Construction in respect of the contractual workman Shri Chandrakant M. Patel is sham and bogus contract?”

“Whether the demand of the workman Shri Chandrakant M. Patel for treating/declaring him as direct and regular/permanent employee of ONGC Ltd. or from the date of notification issued by Government of India, prohibiting his alleged employment/work through the contract system is legal and justified? If so, to what relief Shri Chandrakant M. Patel is entitled and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 05.07.2000. The second party submitted the statement of claim Ex. 4 and 6 on 07.11.2000 and the first party submitted the written statement Ex. 8 on 10.04.2001 in the Industrial Tribunal Surat. The reference was transferred to this tribunal on 15.01.2008 after its creation by the Government of India. Since then the second party has been absent, therefore, on 21.12.2010, notice was issued to both the parties to appear on 04.05.2011 but since then the second party has been absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the reference.
2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: “the contract between the management of ONGC Ltd., Surat and the contractor M/s Sagar Construction in respect of the contractual workman Shri Chandrakant M. Patel is not sham and bogus contract and the demand of the workman Shri Chandrakant M. Patel for treating/declaring him as direct and regular/permanent employee of ONGC Ltd. or from the date of notification issued by Government of India, prohibiting his alleged employment/work through the contract system is not legal and justified.”
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 645.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1308/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/78/2000-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 645.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1308/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/78/2000-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference: (CGITA) No. 1308/2004

1. The Group General Manager (P),
ONGC Ltd., Hazira Project, P.O. Bhatpore,
Surat (Gujarat) - 394518
2. M/s Sagar Construction,
Near Tapi Bridge, Tax Plaza,
Kagdaila ONGC Road,
Surat (Gujarat) – 394518

...First Party

V/s

Shri Kirit D. Patel,
At. Bhatpur, Taluka Choryasi,
Surat (Gujarat)

...Second Party

For the First Party : Shri N.B. Shah

For the Second Party : Shri S.T. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/78/2000-IR(M) dated 05.07.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the contract between the management of ONGC Ltd., Surat and the contractor M/s Sagar Construction in respect of the contractual workman Shri Kirit D. Patel is sham and bogus contract?”

“Whether the demand of the workman Shri Kirit D. Patel for treating/declaring him as direct and regular/permanent employee of ONGC Ltd. or from the date of notification issued by Government of India, prohibiting his alleged employment/work through the contract system is legal and justified? If so, to what relief Shri Kirit D. Patel is entitled and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 05.07.2000. The second party submitted the statement of claim Ex. 4 and 6 on 07.11.2000 and the first party submitted the written statement Ex. 8 on 10.04.2001 in the Industrial Tribunal Surat. The reference was transferred to this tribunal on 15.01.2008 after its creation by the Government of India. Since then the second party has been absent, therefore, on 21.12.2010, notice was issued to both the parties to appear on 04.05.2011 but since then the second party has been absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the reference.

2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: “the contract between the management of ONGC Ltd., Surat and the contractor M/s Sagar Construction in respect of the contractual workman Shri Kirit D. Patel is not sham and bogus contract and the demand of the workman Shri Kirit D. Patel for treating/declaring him as direct and regular/permanent employee of ONGC Ltd. or from the date of notification issued by Government of India, prohibiting his alleged employment/work through the contract system is not legal and justified.”

3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 646.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1311/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/73/2000-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 646.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1311/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/73/2000-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference: (CGITA) No. 1311/2004

1. The Group General Manager (P),
ONGC Ltd., Hazira Project, P.O. Bhatpore,
Surat (Gujarat) - 394518
2. M/s Sagar Construction,
Near Tapi Bridge, Tax Plaza,
Kagdaila ONGC Road,
Surat (Gujarat) – 394518

...First Party

V/s

Shri Pravin F. Patel,
At. Bhatpur, Taluka Choryasi,
Surat (Gujarat)

...Second Party

For the First Party : Shri N.B. Shah

For the Second Party : Shri S.T. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/73/2000-IR(M) dated 05.07.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the contract between the management of ONGC Ltd., Surat and the contractor M/s Sagar Construction in respect of the contractual workman Shri Pravin F. Patel is sham and bogus contract?”

“Whether the demand of the workman Shri Pravin F. Patel for treating/declaring him as direct and regular/permanent employee of ONGC Ltd. or from the date of notification issued by Government of India,

prohibiting his alleged employment/work through the contract system is legal and justified? If so, to what relief Shri Pravin F. Patel is entitled and from which date and what other directions are necessary in the matter?"

1. The reference dates back to 05.07.2000. The second party submitted the statement of claim Ex. 4 and 6 on 07.11.2000 and the first party submitted the written statement Ex. 8 on 10.04.2001 in the Industrial Tribunal Surat. The reference was transferred to this tribunal on 15.01.2008 after its creation by the Government of India. Since then the second party has been absent, therefore, on 21.12.2010, notice was issued to both the parties to appear on 04.05.2011 but since then the second party has been absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the reference.
2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: "the contract between the management of ONGC Ltd., Surat and the contractor M/s Sagar Construction in respect of the contractual workman Shri Pravin F. Patel is not sham and bogus contract and the demand of the workman Shri Pravin F. Patel for treating/declaring him as direct and regular/permanent employee of ONGC Ltd. or from the date of notification issued by Government of India, prohibiting his alleged employment/work through the contract system is not legal and justified."
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 647.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1312/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/76/2000-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 647.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1312/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/76/2000-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference: (CGITA) No. 1312/2004

1. The Group General Manager (P),
ONGC Ltd., Hazira Project, P.O. Bhatpore,
Surat (Gujarat) - 394518
2. M/s Sagar Construction,
Near Tapi Bridge, Tax Plaza,
Kagdaila ONGC Road,
Surat (Gujarat) - 394518

...First Party

V/s

Shri Girish B. Patel,
At. Bhatpur, Taluka Choryasi,
Surat (Gujarat)

...Second Party

For the First Party : Shri N.B. Shah

For the Second Party : Shri S.T. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/76/2000-IR(M) dated 05.07.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the contract between the management of ONGC Ltd., Surat and the contractor M/s Sagar Construction in respect of the contractual workman Shri Girish B. Patel is sham and bogus contract?”

“Whether the demand of the workman Shri Girish B. Patel for treating/declaring him as direct and regular/permanent employee of ONGC Ltd. or from the date of notification issued by Government of India, prohibiting his alleged employment/work through the contract system is legal and justified? If so, to what relief Shri Girish B. Patel is entitled and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 05.07.2000. The second party submitted the statement of claim Ex. 4 and 6 on 24.10.2000 and the first party submitted the written statement Ex. 8 on 10.04.2001 in the Industrial Tribunal Surat. The reference was transferred to this tribunal on 15.01.2008 after its creation by the Government of India. Since then the second party has been absent, therefore, on 21.12.2010, notice was issued to both the parties to appear on 04.05.2011 but since then the second party has been absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the reference.

2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: “the contract between the management of ONGC Ltd., Surat and the contractor M/s Sagar Construction in respect of the contractual workman Shri Girish B. Patel is not sham and bogus contract and the demand of the workman Shri Girish B. Patel for treating/declaring him as direct and regular/permanent employee of ONGC Ltd. or from the date of notification issued by Government of India, prohibiting his alleged employment/work through the contract system is not legal and justified.”

3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 648.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1355/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/19/2001-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 648.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1355/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/19/2001-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference: (CGITA) No. 1355/2004

1. The Group General Manager (P),
ONGC Ltd., Hazira Project, P.O. Bhatpore,
Surat (Gujarat) - 394518
 2. M/s Airon Corporation,
Rajmahal Road, Rhode's Kancha Corner, Baroda
Surat (Gujarat) – 390001
- ...First Party

V/s

Shri Himanshu Harvadan Joshi,
At & Post Digas, Taluka Kamraj,
Surat (Gujarat) – 394330

...Second Party

For the First Party : Shri N.B. Shah

For the Second Party : Shri S.T. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/19/2001-IR(M) dated 22.03.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the contract between the management of ONGC Ltd., Surat through its contractor M/s Airon Corp. in terminating the services of Shri Himanshu Harvadan Joshi, Attendent/Operator (A/C Plant) w.e.f. 30.11.2000, is proper and justified? If not, to what relief the concerned workman is entitled?”

“Whether the demand of the workman Shri Himanshu Harvadan Joshi in considering him as direct/regular employee of ONGC Ltd., w.e.f. the date of his entry in the services is legal, proper and justified? If so, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 22.03.2001. The second party submitted the statement of claim Ex. 5 on 21.01.2002 and the first party submitted the written statement Ex. 11 on 02.01.2003 in the Industrial Tribunal Surat. The reference was transferred to this tribunal on 19.10.2010 after its creation by the Government of India. Since then the second party has been absent, therefore, on 21.12.2010, notice was issued to both the parties to appear on 04.05.2011 but since then the second party has been absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the reference.
2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: “the contract between the management of ONGC Ltd., Surat through its contractor M/s Airon Corp. in terminating the services of Shri Himanshu Harvadan Joshi, Attendent/Operator (A/C Plant) w.e.f. 30.11.2000, is proper and justified and the demand of the workman Shri Himanshu Harvadan Joshi in considering him as direct/regular employee of ONGC Ltd., w.e.f. the date of his entry in the services is not legal, proper and justified.”
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 649.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1358/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/24/2001-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 649.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1358/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/24/2001-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference: (CGITA) No. 1358/2004

1. The Group General Manager (P),
ONGC Ltd., Hazira Project, P.O. Bhatpore,
Surat (Gujarat) – 394518
2. M/s Paradise Refrigeration,
G-5, Orion House, Behind Resham Bhavan, Lal Darwaja,
Surat (Gujarat) - 395003
3. M/s Airon Corporation,
Rajmahal Road, Rhode's Kancha Corner, Baroda
Surat (Gujarat) – 390001

...First Party

V/s

Shri Mohammed Hussain Achha,
107, Govalia Falia, Holibangla,
Katargam,
Surat (Gujarat)

...Second Party

For the First Party : Shri N.B. Shah

For the Second Party : Shri S.T. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/24/2001-IR(M) dated 22.03.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the contract between the management of ONGC Ltd., Surat through its contractor M/s Airon Corp. in terminating the services of Shri Mohammed Hussain Achha, Attendent/Operator (A/C Plant) w.e.f. 30.11.2000, is proper and justified? If not, to what relief the concerned workman is entitled?”

“Whether the demand of the workman Shri Mohammed Hussain Achha in considering him as direct/regular employee of ONGC Ltd., w.e.f. the date of his entry in the services is legal, proper and justified? If so, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 22.03.2001. The second party submitted the statement of claim Ex. 4 on 11.02.2002 in the Industrial Tribunal Surat. The reference was transferred to this tribunal on 19.10.2010 after its creation by the Government of India. The first party repeatedly sought time to file written statement vide applications Ex. 7, 8, 9, 10, 11, 14, 15, 16 and 17 but no written statement was filed. Since then the second party has been absent, therefore, on 21.12.2010, notice was issued to both the parties to appear on 04.05.2011 but since then the second party has been absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the reference.

2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: “the contract between the management of ONGC Ltd., Surat through its contractor M/s Airon Corp. in terminating the services of Shri Mohammed Hussain Achha, Attendent/Operator (A/C Plant) w.e.f. 30.11.2000, is proper and justified and the demand of the workman Shri Mohammed Hussain Achha in considering him as direct/regular employee of ONGC Ltd., w.e.f. the date of his entry in the services is not legal, proper and justified.”

3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 650.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1363/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/23/2001-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 650.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1363/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/23/2001-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference: (CGITA) No. 1363/2004

1. The Group General Manager (P),
ONGC Ltd., Hazira Project, P.O. Bhatpore,
Surat (Gujarat) – 394518
2. M/s United Refrigeration,
Bhavani Kunj (Ground Floor), Shahpur Mill Compound,
Ahmedabad (Gujarat) - 380001
3. M/s Paradise Refrigeration,
G-5, Orion House, Behind Resham Bhavan, Lal Darwaja,
Surat (Gujarat) - 395003
4. M/s Airon Corporation,
Rajmahal Road, Rhode's Kancha Corner, Baroda
Surat (Gujarat) – 390001

...First Party

V/s

Shri Ahmed Mahmood Mulla,
8/116, Nagina Street Randergam, Rander,
Surat (Gujarat)

...Second Party

For the First Party : Shri N.B. Shah

For the Second Party : Shri S.T. Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/23/2001-IR(M) dated 22.03.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the contract between the management of ONGC Ltd., Surat through its contractor M/s Airon Corp. in terminating the services of Shri Ahmed Mehmoood Mulla, Attendent/Operator (A/C Plant) w.e.f. 30.11.2000, is proper and justified? If not, to what relief the concerned workman is entitled?”

“Whether the demand of the workman Shri Ahmed Mehmoood Mulla in considering him as direct/regular employee of ONGC Ltd., w.e.f. the date of his entry in the services is legal, proper and justified? If so, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 22.03.2001. The second party submitted the statement of claim Ex. 6 on 22.01.2002 in the Industrial Tribunal Surat. The reference was transferred to this tribunal on 15.01.2008 after its creation by the Government of India. The first party repeatedly sought time to file written statement vide applications Ex. 8, 9, 10, 11, 18 and 19 but no written statement was filed. Since then the second party has been absent, therefore, on 21.12.2010, notice was issued to both the parties to appear on 04.05.2011 but since then the second party has been absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the reference.
2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: “the contract between the management of ONGC Ltd., Surat through its contractor M/s Airon Corp. in terminating the services of Shri Ahmed Mehmoood Mulla, Attendent/Operator (A/C Plant) w.e.f. 30.11.2000, is proper and justified and the demand of the workman Shri Ahmed Mehmoood Mulla in considering him as direct/regular employee of ONGC Ltd., w.e.f. the date of his entry in the services is not legal, proper and justified.”
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 651.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1365/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/26/2001-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 651.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1365/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/26/2001-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th February, 2017

Reference: (CGITA) No. 1365/2004

1. The Group General Manager (Projects),
ONGC Ltd., Hazira Project, P.O. Bhatpore,
Surat (Gujarat) - 394518
2. M/s Sagar Construction,
301, Avenue Park, City Light Society, Opp. Agriculture Farm,
Surat (Gujarat) – 395007

...First Party

V/s

The President,
Rashtriya Mazdoor Union, Poobari Naka, Salatwada,
Baroda (Gujarat)

...Second Party

For the First Party : Shri C.S. Naidu Associates

For the Second Party : Shri Kurup

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/26/2001-IR(M) dated 22.03.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union to absorb/regularize the services of Shri M.I. Bhatporiya and 15 others as permanent and direct employees of ONGC Ltd., Hazira Project, Surat with time scale of pay of their category of work equivalent to their similar placed regular employees of ONGC Ltd., either from the date of completion of 240 days of continuous employment or from the date of prohibiting the employment by the appropriate government by declaring the contract as ‘sham contract’ is fair and justified? If so, to what relief the concerned workmen are entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 22.03.2001. The second party submitted the statement of claim Ex. 6 on 23.08.2001. The first party submitted the written statement Ex. 18 on 27.01.2004. Later the reference was transferred to this tribunal

on 15.01.2008. Though the second party had been absent since long but on 25.07.2016, five of the workmen out of 16 workmen through second party union namely

- i. Hitesh Kanti Patel
- ii. Ashok Rama Patel
- iii. Manish C. Patel
- iv. Arjun Gareja
- v. Sunil L. Patil

Moved an application Ex. 31 for withdrawal of the reference and to delete their names from the reference. The said application was allowed and the names of the aforesaid workmen were deleted from the reference. The references as regards remaining workmen was listed for 16.12.2016 but despite giving number of dates, the second party union or remaining workmen failed to lead their evidence. Thus it appears that the second party has not willing to prosecute the case.

2. It is noteworthy that the matter relates to the outsourcing of the workmen by the first party employer ONGC through a contractor.

3. Therefore, the reference is disposed of in the absence of the evidence of the remaining second party workmen with the observation as under: “the demand of the union to absorb/regularize the services of Shri M.I. Bhatporiya and 10 others as permanent and direct employees of ONGC Ltd., Hazira Project, Surat with time scale of pay of their category of work equivalent to their similar placed regular employees of ONGC Ltd., either from the date of completion of 240 days of continuous employment or from the date of prohibiting the employment by the appropriate government by declaring the contract as ‘sham contract’ is not fair and justified.”

4. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 652.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स आई. बी.पी. कं. लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1405/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/45/2003-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 652.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1405/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. IBP Co. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/45/2003-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 16th February, 2017

Reference: (CGITA) No. 1405/2004

M/s IBP Co. Ltd.,
Allahabad Bank Building,
Bombay Samachar Marg,
Mumbai – 400023

...First Party

V/s

Shri Suresh C. Shukla,
A-3, Akhandand Apartments,
Krishnakunj Society,
Street No. 2, Palanpur Patia,
Surat (Gujarat) – 395009

...Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/45/2003-IR(M) dated 11.12.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the workman Shri Suresh C. Shukla for reinstatement in service with 100% back wages is legal, proper and justified? If so, to what relief the concerned workman is entitled and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 11.12.2003. Neither of the parties submitted their pleadings, therefore, on 05.01.2017, fresh notice was issued to both the parties to appear and submit their pleadings on 16.02.2017. Neither of the parties appeared today on 16.02.2017.
2. Therefore, the reference is disposed of with the observation as under: “the demand of the workman Shri Suresh C. Shukla for reinstatement in service with 100% back wages is not legal, proper and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 मार्च, 2017

का.आ. 653.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1417/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.03.2017 को प्राप्त हुआ था।

[सं. एल-30012/3/2004-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 2nd March, 2017

S.O. 653.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1417/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and other and their workman, which was received by the Central Government on 01.03.2017.

[No. L-30012/3/2004-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th February, 2017

Reference: (CGITA) No. 1417/2004

1. M/s Guardwell Security Services,
103/113, Omkar Chambers, 1st Floor,
Opp. Railway Station,
Surat (Gujarat)
 2. The Group General Manager,
ONGC Ltd., WRBC, Makarpura Road,
Head Reg. Off.,
Baroda (Gujarat) – 390009
- ...First Party

V/s

Shri Sureshbhai Mansinghbhai Parmar,
C-44, Priyadarshini, Opp. Novino Batteries,
Makarpura Road,
Baroda (Gujarat)

...Second Party

For the First Party : Shri C.S. Naidu Associates

For the Second Party : Advocate J.I. Shah

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/3/2004-IR(M) dated 18.05.2004 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the workman S/Shri Chhatrasingh Shivabhai Parmar and 11 others engaged through various contractors in the establishment of ONGC Ltd., Baroda for treating them as ‘direct and regular’ employee of the ONGC Ltd., is legal, proper and justified? If so, to what relief these workmen are entitled and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 18.05.2004. The second party submitted the written statement Ex. 5 on 21.08.2009. The first party submitted the written statement Ex. 8 on 08.01.2016. The reference earlier was pending in Industrial Tribunal Ahmedabad and it was transferred to this tribunal on 01.11.2010. Both the parties appeared in this tribunal. Since 30.01.2013, the second party has been failed to lead evidence despite making order to proceed ex-parte against the first party since then. Thus it appears that the second party are not willing to prosecute the case.
2. It is noteworthy that the matter relates to the outsourcing of the workmen by the first party employer ONGC through a contractor.
3. Therefore, the reference is disposed of in the absence of the evidence and non-prosecution of the case by the second party workmen with the observation as under: “the demand of the workman S/Shri Chhatrasingh Shivabhai Parmar and 11 others engaged through various contractors in the establishment of ONGC Ltd., Baroda for treating them as ‘direct and regular’ employee of the ONGC Ltd., is not legal, proper and justified.”
4. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 654.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मालिक, एम/एस शिव कुमार उद्यम संरक्षण और हाउसकीपिंग ठेकेदार व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, मुंबई के पंचाट (संदर्भ संख्या 2/97 का 2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/118/2014-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 654.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 2/97 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in Annexure, in the industrial dispute between the employers in relation to the Proprietor, M/s Shiv Kumar Enterprises Conservancy and Housekeeping Contractor and their workman, which was received by the Central Government on 22.02.2017.

[No. L-42012/118/2014-IR (DU)]

RAJENDAR JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M.V. DESHPANDE, Presiding Officer

REFERENCE NO. CGIT-2/97 of 2014

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

(1) M/S. SHIV KUMAR ENTERPRISES (CONTRACTOR)

(2) BARC

The Proprietor
M/s. Shiv Kumar Enterprises
Conservancy and Housekeeping Contractor
Shivanam Building, Aziz Baug
Mahul Road,
Chembur
Mumbai-400 074

The Deputy Establishment Officer & Principal Employer
BARC, Trombay HRD & SR & W
Central Complex
Mumbai-400 085

AND

THEIR WORKMEN

The President
Mumbai Shramik Sangh 'Sangharsh'
Quary Road
Bhandup (W)
Mumbai-400 078

APPEARANCES:

FOR THE EMPLOYER	:	No appearance
FOR THE UNION/WORKMEN	:	No appearance

Mumbai, dated the 31st January, 2017.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-42012/118/2014-IR (DU), dated 09.10.2014 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demand of 15 contract workmen for regularization in the service of BARC, Tarapur is legal and justified? If so, to what relief they are entitled to?”

List of 15 contract workmen :

1. Dinkar J. Dhanpal
2. N.L. Hadal
3. Rakesh H. Sankhe
4. Pramila P. Dumada
5. Hiroo V. Baldha
6. Ashish P. Dumada
7. Sandip M. Kamdi
8. Subash J. Jimbhal
9. Kamli L. Ambath
10. Sona N. Hadal
11. Kamal S. Dumada
12. Manok K. Patil
13. Sunil A. Medha
14. Shailesh R. Ambath
15. Suman Shankar Dumada

2. After receipt of the Reference, notices were issued to both the parties. Acknowledgement of notice served on the second party Union is at Ex-6. Matter was adjourned on several occasions for filing Statement of Claim by second party/Union. Second party/Union neither appeared before this Tribunal nor filed Statement of claim. Without Statement of claim, the Reference cannot be decided on merits and the same deserves to be dismissed. Hence I pass the following order:

ORDER

Reference stands dismissed for want of prosecution.

Date: 31.01.2017

M. V. DESHPANDE, Presiding Officer/Judge

नई दिल्ली, 3 मार्च, 2017

का.आ. 655.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, भारत संचार निगम लिमिटेड व अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, मुंबई के पंचाट (संदर्भ संख्या 2/38 का 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.02.2017 को प्राप्त हुआ था।

[सं. एल-40012/127/2004-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 655.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 2/38 of 2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Bharat Sanchar Nigam Ltd. and their workman, which was received by the Central Government on 05.02.2017.

[No. L-40012/127/2004-IR (DU)]

RAJENDAR JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M.V. DESHPANDE, Presiding Officer

REFERENCE NO. CGIT-2/38 of 2005

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

BHARAT SANCHAR NIGAM LTD.

The General Manager
Bharat Sanchar Nigam Ltd.
Goa Telecom District
“Goa Sanchar Bhavan”
EDC Plot No. 3
Patto Plaza, Panaji
Goa 403 001

AND

THEIR WORKMEN

Shri Suwas B. Pednekar
House No. 105
Takir Waddo
P.O. Cansaulim
Velsao, Goa

APPEARANCES :

FOR THE EMPLOYER : Mr. R. A. S. Kharangate, Advocate

FOR THE WORKMEN : Mr. P. Gaonkar, Representative

Camp: GOA, dated the 27th September, 2016

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-40012/127/2004-IR (DU) dated 22/12/2004 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of BSNL, Goa in terminating the services of Shri Suwas B. Pednekar w.e.f. February 2004 is legal and justified? If not, to what relief is the workman entitled?”

2. Statement of Claim is filed by 2nd party at Ex-6 making out the case that, he worked with 1st party since January, 2002 in their Telephone Exchange at Cansaulin Salcete Goa. He states that, his duty hours were between 9 am to 5 pm daily and he worked for more than 240 days. He states that his duties were allotted by JTO (Junior Telecom Officer) and in his absence by SDO (Sub-Divisional Officer). He states that, his salary was paid every month by JTO and in his absence by SDO. His duty was to attend complaints of customers recorded in the Complaints Book maintained by 1st party. Besides said work, he was supposed to attend the work of Technicians e.g. Main Distribution Frame (MDF) and Generator Operation. He states that, since June, 2002 to September, 2003, he was allowed to sign the muster roll maintained in the Telephone Exchange by Cansaulim Telephone Exchange. He states that, due to change in officers, new officer did not permit him to report on duty and he was not allowed to sign the muster from October, 2003 to January, 2004 though he was attending complaints and doing work as usual. He states that, from February, 2004 he was not allowed to even report on duty. He states that, workman by name Lamani is engaged in his place. It is stated that, without following due process of law he was terminated. It is stated that, since he completed 240 days he became permanent employee of 1st party and 1st party cannot terminate him without following due process of law. It is

submitted that, said act of the 1st party in refusing him to report on duty from October, 2003 be treated as termination and direct 1st party to reinstate him with benefits of back wages and continuity of service.

3. This is disputed by 1st party by filing written statement at Ex-8 stating and contending that, the Reference is not maintainable as there is no employer-employee relationship between the 1st party and the 2nd party. It is stated that, 2nd party was never appointed by 1st party. It is stated that, no recruitment rules were followed in allowing 2nd party to work in the establishment of 1st party. Since there is no employee-employer relationships between the parties, question of termination does not arise. It is stated that, 2nd party worked with 1st party through contractor who might have terminated the service of 2nd party. Since 2nd party was not appointed by 1st party and since he is contract worker, he cannot seek any relief against 1st party. It is denied that, he was attending work regularly. It is denied that, he worked for more than 240 days. It is denied that, he is entitled to reinstatement with benefit of back wages and continuity of service. It is denied that, 1st party terminated his services. It is stated that, the contractor might have asked the concerned workman not to report on duty and or that 1st party cannot be held answerable for alleged termination. It is stated that, since 2nd party was neither appointed nor terminated by the 1st party, the question of seeking any relief against 1st party does not arise. So it is submitted that, Reference be rejected.

4. Second party filed rejoinder at Ex-12 simply denying the contentions taken by 1st party in written statement parwise and prayed to reinstate him with benefit of back wages and continuity of service.

5. This Tribunal has passed the Award on 18/11/2009. As per the Award passed by the Tribunal, it has directed to take second party i.e. Mr. Suwas Pedneakar on his post on which he was working and permit him to work. As per the Award passed by this Tribunal so far the prayer of the second party for back wages is rejected.

6. Management BSNL has filed Writ Petition bearing No.16 of 2012 before the Hon'ble Court Bombay and challenged the said Award passed by this Tribunal. Hon'ble High Court has modified the Award. As per the Order of Hon'ble High Court in Writ Petition No. 16 of 2012 the order to the extent of reinstatement is modified and the Tribunal is directed to fix the compensation to be paid to the respondent in lieu of such reinstatement in the light of the observations made by the Apex Court after hearing the parties in accordance with law. Both the parties are at liberty to file additional pleadings in support of such claim for compensation.

7. In view of that the second party workman has filed Additional Statement of Claim at Ex-53, making out the case that he was the semiskilled worker employed as "Complaints Attendant" with the establishment of 1st party at Cansaulim since January 2002 and subsequently the services were terminated. According to him his last drawn salary was Rs 2000/-. However Department of Labour, State Government of Goa vide notification No. 24/12/2009-Lab dt-15/12/09 published in Official Gazette, Series I NO. 39 dt 24/12/2009 has revised the rate of minimum wages to be paid to a semi-skilled workman working in a commercial / industrial establishment and as per the said notification semiskilled labour working in a commercial or industrial establishment engaged in commercial, manufacturing and service activities must be paid Rs. 165/- per day, which is the minimum rate of wage prescribed by the State Government. He was a semiskilled worker and he was paid monthly salary by 1st party. He was a sole earning member of his family in 2004 and he has lost the Provident Fund and other benefits. He also lost the future earning of remaining years of service which amounts to Rs 10 lakhs. So according to him compensation can be calculated based on his back wages, loss of income in future and the expenses he has incurred in conducting this matter. He has prayed for compensation of Rs. 10 lakhs or more.

8. In view of additional claim of Statement first party by filing written statement has stated that the payment was made to the contractor who made the payment to party No. 2 workman. Since 1st party during the contract period from January 2002 to February 2004 had hired the services of party 2 / workman. It is also denied that 2nd party is a semi-skilled worker. It is denied that the last drawn salary by workman was Rs 2000. It is the denied that the compensation to be paid to 2nd party / workman is to be calculated based on his back wages, loss of income in future and the expenses he has incurred in conducting this matter. So it is submitted by the first party that the claim of compensation of Rs 10 lakh or more be rejected.

9. In view of above pleadings following are the issues for my determination. I record my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	What is the amount of compensation to be paid to respondent / 2 nd party/workman?	Rs. 1,50,000/- to be paid towards compensation.
2	What order?	As per order

REASONS**ISSUES Nos. 1 & 2:**

10. Both the parties have not led their evidence. Second party workman claims that the compensation has to be determined based on his back wages, loss of income in future and the expenses he has incurred in conducting this matter. Ld. Counsel for 2nd party workman submitted that the Hon'ble High Court has not modified the finding of illegal termination and therefore there is finding of fact that first party has illegally terminated the services of 2nd party/workman. Submission is to the effect that the purchasing power of rupees has been diminished to a large extent since 2004 and that apart, the second party workman being the semiskilled workman the amount of compensation in lieu of reinstatement must be in the light of guidelines given by Hon'ble Supreme Court of India in **Jasbir Singh V/s Haryana State Agriculture Marketing Board and another AIR 2009 SC 3004**.

11. Ld. Counsel for second party workman seeks to rely on decision in case of **Tapash Kumar Paul V/s BSNL and Another 2014 STPL (Web) 345 SC** to submit that ordinarily the relief to be awarded must be reinstatement with back wages and therefore while calculating the amount of compensation, it is necessary to consider his back wages, loss of income in future and the expenses he has incurred in conducting this matter.

12. In my considered view while calculating the amount of compensation it is necessary to consider the factors, inter-alia matter and method of appointment, nature of employment and length of service. So far manner of appointment of the 2nd party workman is concerned it appears that he was contract worker. He was employed as "Complaints Attendant" since 2002. His services were terminated w.e.f. February 2004. At the time of termination his salary was Rs 2000 pay on the basis of one half of back wages of workman for the period from his termination till date of Award passed by this Tribunal i.e. from February 2004 to November 2009 would be about Rs. 69000/-. Taking into consideration for salary of workman at the time of passing Award and length of service and nature of employment, the amount of compensation in lieu of reinstatement for the loss of future employment would be Rs. 1 lakh. If that amount had been paid to workman in 1984, he would have earned Rs 1000/- per year as interest amount during the period of date of award till today which comes to Rs 7000/- considering all these factors including litigation expenses etc. I find that workman is entitled to compensation of Rs 1,50,000/- (Rupees one lakh fifty thousand only) in lieu of reinstatement for loss of future employment. In the context Ld. counsel for the Union seeks to rely on the decision in case of :

(I) **Workmen of Bharat Fritz Werner (P) Ltd. and Bharat Fritz Werner (P) Ltd. & Anr.**

(II) **Bharat Fritz Werner (P) Ltd. And Workmen of Bharat Fritz Werner (P) Ltd & Anr.**

13. Taking into consideration the aspect no post is available to accommodate the workman in the employment, the amount of compensation is to be paid to the workman in lieu of reinstatement. Hence, I find that workman Mr. Suwas Pednekar is entitled to get compensation of Rs. 1,50,000 (one lakh fifty thousand rupees only) along with interest at the rate of 15% p.a. from the date of this Award till payment.

14. In view of above, I pass following order:

ORDER

1. Application is partly allowed with no order as to costs.

2. The first party is directed to pay compensation of Rs. 1,50,000/- (Rupees one lakh fifty thousand only) to second party workman Shri Suwas Pednekar in lieu of reinstatement for loss of future employment along with interest @ of 15% p.a. from the date of award till payment.

Date: 27.09.2016

Camp: Goa

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 656.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, भारत सरकार टकसाल, वित्त मंत्रालय व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, मुंबई के पंचाट (संदर्भ संख्या 2/44 का 2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.12.2016 को प्राप्त हुआ था।

[सं. एल-16011/1/2009-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 656.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 2/44 of 2009) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, India Government Mint, Ministry of Finance and their workman, which was received by the Central Government on 05.12.2016.

[No. L-16011/1/2009-IR (DU)]

RAJENDAR JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT :** M.V. DESHPANDE, Presiding Officer**REFERENCE NO.**CGIT-2/44 of 2009

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

INDIA GOVERNMENT MINT

The General Manager
India Government Mint
Ministry of Finance
Shahid Bhagat Singh Road
Fort
Mumbai-400 023.

AND**THEIR WORKMEN**

Shri K.M. Kshirsagar & 9 Ors.
C/o. Shri M.S. Bait
2/69, C.N. Dhouse
Mint Colony
Parel
Mumbai- 400 012.

APPEARANCES :

FOR THE EMPLOYER : Mr. N.J. Gonsalves, Advocate

FOR THE WORKMEN : Mr. A.M. Koyande, Advocate.

Mumbai, dated the 7th September, 2016.**AWARD**

The Government of India, Ministry of Labour & Employment by its Order No.L-16011/1/2009 (IR(DU)), dated 05.05.2009 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demand of Shri K.M. Kshirsagar, Shri S.P. Deolekar, Shri A.V. Nikam, Shri R.T. Masurkar, Shri S.Y. Mondakar, Shri H.B. Barot (Deleted vide order on Ex-8) Shri C.N. Dharse, Shri M.S. Bait, Shri H.R. Mahadik and Shri A.M. Shetye, for payment of gold allowance to them by the management of India Government Mint, Mumbai, is legal and justified? If yes, what relief the workmen are entitled to and from which date?”

2. After receipt of the reference, notices were issued to both the parties. In response to the notice the second party workmen filed their Statement of Claim at Ex-6. According to them they are working in Assay Department. They have joined at the first party since 1/4/1971, 1/4/1973 19/1/1976, 31/3/1978, 1/12/80, 13/2/1989, 1/12/1984, 1/1/1973, 2/8/1971 and 1/12/1984 respectively as Laboratory Assistants. They are workmen working with the precious metal like Gold, Silver etc, and doing work of testing, refining, cutting, rolling, weighing, furnacing, numbering, corneting, parting, washing drying of gold etc since their appointment. India Government Mint has about 24 departments. Assay department is one of the departments. According to them they are working in Assay department and dealing with the precious metal viz. Gold, Silver and Platinum. Since the beginning, they are pursuing their grievance with the Management. But Management did not take up their grievance seriously nor made any recommendations to the Pay

Commission. They sent letter dt 17/10/1985 to the Secretary, Ministry of Finance through their Advocate but no reply has been given. On 30/01/1990 one of workmen Shri M.S. Bait wrote letter to the then Finance Minister. On the direction of Finance Minister the Under Secretary, Government of India on 24th July 1992 issued a letter to the Management and directed them to examine the issue of the workmen. Even thereafter first party management has not examined the issue nor sent recommendations. On 7/2/2008 the workmen sent letter to first party management calling upon them to pay gold allowance to the second party workmen but nothing happened. The workmen also wrote letter to their Union requesting them to take up their issue of Gold Allowance, but they had also not shown any interest in workmen's issue. Hence workmen wrote letter dated 8/7/2008 raised demand to the General Manager, India Government Mint and thereafter raised dispute with the Assistant Labour Commissioner (Central) and requested him to look into their grievance. The management did not consider their demand and hence there could not be any settlement in the matter. Hence Asst. Labour Commissioner (C) sent failure report to the Secretary, Government of India, Ministry of Labour who referred the dispute for adjudication.

3. According to the workmen they are working with the gold but they are not given gold allowance prior to 1996. The workmen and staff working in Assay Department were also getting gold allowance but thereafter the same was discontinued. As such these workmen are discriminated. The workmen concerned also carryout Assay of Gold, Silver, Platinum samples received from Bullion, Gold Melting and Medal Departments and also from outside parties. These workmen also carry out Assay and refining of Gold and Silver sent by Police department, customs and other vigilance authorities all over India. Workmen of maintenance department working in Gold Melting and Medal Department are also paid Gold Allowance even though they are not physically involved in the work of processing of Gold. Workmen, supervisors, unskilled, skilled employees of Gold Melting Department and Medal Department are getting gold allowance. The gold allowance is being paid to those who handle and do various work irrespective of responsibilities of safe keeping and accurating of samples of the precious metals. The quantity of gold is not criteria for payment of gold allowance. In the circumstances second party workmen are entitled to gold allowance. They pray that it may be held that they are entitled to gold allowance w.e.f 17/10/1985 along with arrears with 12% interest thereon.

4. First party resisted the Statement of Claim vide their Written Statement at EX-7. According to them Assay Department where the second party are working is an Officer oriented department, in which qualified officers having M.Sc. Degree in inorganic chemistry only are appointed in this department. All the skilled work is done by the Officers themselves with their own hand and the workmen merely help them in carrying out certain simple stage of the process which involves work of semi skilled and unskilled nature. While carrying out the Assay samples, in all these techniques the crucial factors like how much sample is to be chosen for analysis, which acid and what strength is to be used for dissolution, which specific reagent of what strength is to be used for precipitation, which porosity paper or crucible is to be used for filtration, which temperature is to be used for ignition is decided by the officers only. The workmen of Assay department are non-tradesman and their entry point is from Assistant Class V from among the labourers of this Mint, who have studied up to SSC with Science subject. They do not have any proficiency certificate issued by an Institution (such as a Laboratory technician proficiency certificate issued by any recognized institution) etc. They are not authorized to carry out any analysis work but only offer manual assistance/ help to the Assayer while he is carrying out any analysis work. They do the only manual work involved in Assay process which is chalked out/ planned by the Assayer. When the gold refining work is not pertaining to Assay department the question of paying Gold Allowance does not arise. The said Assay department is a small service department of the Mint doing the analysis of metal & alloys for the Mint and Public. The day to day work consists of Gold, Silver, coinage alloys and Pyx coins mainly and analysis of Gold, silver dross, analysis of samples of metals and alloys. No gold refining work is being carried out in the Assay department. Therefore they are not entitled to gold allowance.

5. According to them the Gold Allowance is paid to only those workmen who are working in Gold Melting Department and Bullion department as per Government of India O.M.F. No. 11/2/90-Coin-II dated 24/7/1992 and F.No. 11/2/98-Coin-II dated 15/12/1999. It is their contention that gold allowance Scheme was also available in Assay department subject to some minimum number of Gold Assays. As the required minimum number could not be achieved in the department, the Scheme lapsed. As regard Gold Allowance paid to one of the workmen who were deputed to the Gold Collection cum Deliver Center, Ahmadabad, is due to the fact that the center was considered as a single department and hence the allowance was extended to him at par with other employee belonging to Bullion and Gold Melting Department and not in other department of Mint. The gold allowance is being paid to the goldsmiths (tradesman) working in the Medal Department due to the fact that they physically handle large quantities of gold on a daily basis for manufacturing of Gold medals, Gold lockets, Gold coins etc. The gold is paid to those workers who are actually contributing their services where the gold melting and refining work is carried out. Gold melting and refining work is not pertaining to the Assay Department. Hence the question of paying Gold Allowance to the Second party workmen, does not arise. As such second party workmen are not entitled to Gold allowance. The first party prays that Reference be rejected with cost.

6. In view of that now following are the issues for my determination. I record my findings there on for the reasons to follow:

Sr. No.	Issues	Findings
1.	Whether the workmen under Reference are entitled to Gold Allowance from the management of India Government Mint, Mumbai?	No.
2.	If yes, from which date?	Does not survive.
3.	What order?	As per order.

REASONS

Issue No.1:

7. Admittedly concerned workmen are working in Assay Department. So far work assigned to the workers working in Assay Department is concerned it is as under:

Hammer and Rolling of Sample:

- Samples of the gold, silver dross, mint drosses brought through bullion Register are received by Mistry/Laboratory Assistants.
- After the receipt the Mistry- Laboratory Assistants weigh the samples and compare the weight with that of written in the Register. He notes down the actual weight on the muster papers. Thereafter, he enters in this register the petitioners of samples and passes it on to the Laboratory Assistants.
- The Laboratory Assistant hammers the samples to prepare roll, of such samples, such rolls are prepared for making it convenient to cut the sample. The Laboratory Assistant has to take utmost care so that it would not break while making rolls. While hammering if broken; the Laboratory Assistant has to brush out surrounding area and to find out the broken pieces. After hammering and rolling, the Laboratory Assistant passes Rolls to the Mistry who verifies the weight.

8. So far contentions go, it is contention of the first party that in Assay Department all the skilled work is done by the Officers themselves with their own hand and the workmen merely help them in carrying out certain simple stage of the process which involves work of semi skilled and unskilled nature. While carrying out the Assay samples, in all these techniques the crucial factors like how much sample is to be chosen for analysis, which acid and what strength is to be used for dissolution, which specific reagent of what strength is to be used for precipitation, which porosity paper or crucible is to be used for filtration, which temperature is to be used for ignition is decided by the officers only. So far the workmen of Assay department are concerned they are non-tradesman and their entry point is from Assistant Class V from among the labourers of this Mint, who have studied up to SSC with Science subject. They are not authorized to carry out any analysis work but only offer manual assistance/ help to the Assayer while he is carrying out any analysis work. It is made clear that the gold refining work is not pertaining to Assay Department.

9. In his evidence Mr. Manohar Bait has admitted that they used to work as per the work allotted to them and as per the direction of the superior. He admits that he has not obtained any additional qualification. He also admits that gold allowance is also paid to all and as such gold allowance is paid where the work is being done.

10. In view of that it is to be seen whether concerned workmen are entitled to gold allowance. In the context we have document to show that Ministry of Finance has sent letter dt 24/12/1998, wherein it is mentioned that there was distinction in rates of Gold allowance in Gold Refinery Section and the Bullion Department and it is recommended that the rates may be enhanced to the workmen and supervisors respectively in gold Refining Section and in Bullion Department. In this letter it is specifically recommended that there is no justification for such allowance in India Government Mint, Noida where precious metals are neither refined nor handled. So as per the recommendation of the commission it appears that workers and non gazette supervisory staff in Mints and Security Presses are entitled to night shift allowance not exceeding Rs. 2200 p.m. and in addition workmen and supervisors in Gold Refining Section of the Mints are entitled to gold allowance of Rs. 3 per day and Rs. 6 per day respectively whereas those in Bullion department are paid the allowance at the rate of 1.60 and Rs. 4.8 per day respectively are entitled to gold allowance. There is no reference of entitlement of gold allowance to the workmen of Assay department.

It appears that the Ministry of finance issued letter to the General Manager in respect of the increase in rates as per recommendations of Vth pay Commission are in this letter. It is made clear that the rate of gold allowance to workmen and supervisory staff in gold refining section and in Bullion Department was increased to Rs 5 for workers in gold refining section and Rs. 10 to supervisory staff in gold refining section. It is enhanced to Rs. 2.50 to workers of the Bullion department and Rs. 5 to supervisory staff in Bullion department. It appears that previously the workmen in gold refining section were receiving Rs. 3 per day and supervisory staffs were receiving Rs 6 per day of Gold refining section. The workmen in Bullion department were getting Rs. 1.60 per day and Supervisory Staff was getting Rs 4 per day in Bullion Department. From these letters it is made clear that workmen and supervisory staff in Gold Refining Section and in Bullion Department are being paid the gold allowance.

11. Ld counsel for the concerned workmen submitted that they had made representations and sent letters to Secretary to the Government of India, making their demand for getting gold allowance to the workers in Assay Department. He refers to letters Exhibit-18, 20, 21, to submit that they have raised their demand to get the gold allowance but then it appears that they were informed that they are not entitled to gold allowance. The reasons have been stated by first party for not paying gold allowance is that the quantity of gold samples sent for assay by the Bullion department is minuscule. Out of each gold bar weighing 6 kg to 7 kg known as slipper bars, only a portion of that particular bar weighing 5 gm to 15 gm is drawn as sample and sent to the Assay department for analysis which is done only by the qualified officers and not by the Laboratory assistants. It is made clear in the said letter dt 9/1/2009 that the quantity of gold sent as samples and being handled by the workmen in the Assay department is so small that a comparison cannot be drawn with the quantity being handled by Bullion, gold melting and Metal departments which runs into hundreds and thousands of kilograms. The fact remains therefore that the claim of workmen for getting gold allowance is all the while rejected on the ground of nature of their work carried out by them and recommendations made by Commission.

12. Ld. Counsel for the workmen submitted that earlier the gold allowance was paid to the workers of Assay Department prior to 1996 but thereafter it was discontinued, though the second party workmen are doing similar nature of work. It is also contended by them that Assay staff of gold collection cum Delivery Centre at Ahmadabad was paid Gold Allowance. One of these, workmen was sent to Gold Melting centre at Ahmedabad and was doing similar work. He was paid gold allowance. He submits that the workmen who are doing recovery of gold from Cyanide solution containing Sulphuric acid and also recovered maximum quantity of gold and therefore considering the nature of work by the workers in Assay Department they are entitled to gold allowance.

13. It is not possible to accept this submission because Gold Allowance Scheme which was available in Assay Department was subject to some minimum number of Gold Assays. As the required minimum number could not be achieved in the department, the Scheme lapsed. This is also made clear that workman Shri C.N. Dhavse who was deputed to gold collection section was paid gold allowance due to the fact that the center was considered as a single department and hence the allowance was paid to him at par with the other employee belonging to Bullion and Gold Melting Department. So, that cannot be criteria of entitlement of concerned workmen to get the gold allowance specifically when it is made clear that the gold allowance is being paid only to gold refining section and bullion department, as per Ex-17 Government of India order and as per the recommendation of Pay Commissions. The concerned workmen are not required to carry out any analysis work independently but they are required to help the analyzer in carrying out the analysis work. As such they do manual work involved in assay process which is chalked out by the analyzer. Considering their quality of nature of work, it appears that the commission has made recommendations for paying gold allowance only to the workers and supervisory staff of gold refining section and bullion department. In view of these facts, I find that the concerned workmen are not entitled to Gold Allowance from the Management of India Government, Mint. Issue No. 1 is answered in the negative.

Issues Nos. 2 and 3:-

14. In view of finding to Issue No. 1, Issue No. 2 does not survive. I find that the concerned workmen are not entitled to get Gold Allowance from the management of India Government Mint, Mumbai and therefore the Reference deserves to be rejected.

ORDER

Reference is rejected with no order as to costs.

Date: 07.09.2016

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 657.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 61/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/215/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 657.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 61/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/215/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 61/2016

Shri Dinesh Chander, S/o Shri Rmeshwar Dayal, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi-110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No. 8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi-110 003
2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi-110 019

...Managements

AWARD

Central Government, vide letter No. L-42011/215/2015-IR(DU) dated 06.01.2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Dinesh Chander, S/o Shri Rmeshwar Dayal with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Dinesh Chander, S/o Shri Rmeshwar Dayal? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Dinesh Chander opted not to file his claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 24, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 658.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 19/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/173/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 658.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 19/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/173/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 19/2016

Shri Umesh Chander S/o Shri Aidal Singh, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi-110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No. 8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi-110 003
2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi-110 019

...Managements

AWARD

Central Government, vide letter No. L-42011/173/2015-IR(DU) dated 30.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Umesh Chander S/o Shri Aidal Singh with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and

bogus as requested by the workman Shri Umesh Chander S/o Shri Aidal Singh? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Umesh Chander opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 24, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 659.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 28/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.01.2017 को प्राप्त हुआ था।

[सं. एल-42011/182/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 659.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 28/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 05.01.2017.

[No. L-42011/182/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 28/2016

Shri Prakash Kumar Nayak S/o Shri Vipin Bihari Nayak, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi-110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No. 8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi-110 003

2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi-110 019

...Managements

AWARD

Central Government, vide letter No. L-42011/182/2015-IR(DU) dated 31.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Prakash Kumar Nayak S/o Vipin Bihari Nayak with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Prakash Kumar Nayak S/o Vipin Bihari Nayak? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Prakash Kumar Nayak opted not to file his claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.
4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 20, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 660.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 58/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/212/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 660.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 58/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/212/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI****ID No. 58/2016**

Shri Vinod Singh S/o Shri Tulsi Ram Singh, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi-110 019

...Workman

Versus

3. The General Manager,
SCOPE,
Core No. 8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi-110 003
4. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi-110 019

...Managements

AWARD

Central Government, vide letter No. L-42011/212/2015-IR(DU) dated 06.01.2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Vinod Singh, S/o Shri Tulsi Ram Singh with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Vinod Singh, S/o Shri Tulsi Ram Singh? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Vinod Singh opted not to file his claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.
4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 22, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 661.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 29/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.01.2017 को प्राप्त हुआ था।

[सं. एल-42011/183/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 661.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 29/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 05.01.2017.

[No. L-42011/183/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 29/2016

Shri Deepak Kumar Sahu S/o Shri Suresh Chander Sahu, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi-110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No. 8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi-110 003
2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi-110 019

...Managements

AWARD

Central Government, vide letter No. L-42011/183/2015-IR(DU) dated 31.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Deepak Kumar Sahu S/o Shri Suresh Chander Sahu with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Deepak Kumar Sahu S/o Shri Suresh Chander Sahu? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Deepak Kumar Sahu opted not to file his claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 20, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 662.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महानिदेशक (वर्क्स), सीपीडब्ल्यूडी, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 237/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 662.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 237/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Director General (Works), C.P.W.D., New Delhi and their workman, which was received by the Central Government on 14.12.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 237/2015

Shri Baldev Singh, S/o Shri Roshan Lal and Shri Roshal Lal,
S/o Shri Dhan Singh, through
MCD General Mazdoor Union,
Room No. 95, Barrack No. 1/10,
Jam Nagar House, Shah Jahan Road,
New Delhi – 110 011

...Workman

Versus

The Director General (Works)
C.P.W.D.,
Nirman Bhawan,
New Delhi – 110 001

...Management

AWARD

A reference was received from Central Government under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) for adjudication, terms of which are as under:

'Whether the action of the management in not regularizing the services of the workmen as Motor Lorry Drivers with effect from 04.04.2003 is legal and fair? If not, to what relief the workmen are entitled to and from which date?

2. It is averred in the statement of claim filed on behalf of Shri Baldev Singh and Shri Bal Kishan, hereinafter referred to as the claimants, that they were initially appointed as Motor Lorry Drivers (in short MLD) on daily wage basis on 11.02.1988 and 05.10.1989 respectively. Later on, their services were terminated on 30.09.1992 and

30.09.1993 respectively. However, they were reinstated by Central Government Industrial Tribunal cum Labour Court vide its award dated 22.02.2006. It is further averred that award passed by the Industrial Tribunal was further upheld by Single Judge as well as Division Bench of Hon'ble High Court and Hon'ble Supreme Court, upholding stand of the workmen that they are not employees of the contractor in the matter of Satpal Singh case. Further, the Courts have given findings that they were work order employees and are also daily rated workers.

3. Claimants herein are presently posted under Horticulture Division. M-314 and junior person, Shri Narayan Singh, who was initially appointed on muster roll with effect from 24.09.1991 was regularized with effect from 02.04.2003. Daily rated workers with the management have been getting wages in the minimum of pay scale plus all allowances but the workmen herein were denied the said payment, as a result of which the workmen have filed the application under Section 33-C(1) of the Act and the said order has been challenged by the management, which is pending before the Hon'ble High Court of Delhi.

4. It is the case of the workmen that in the establishment of CPWD, daily rated employees are being paid equal pay for equal work and accordingly the claimants are also entitled for such wages from the management as per office memorandum dated 21.10.1990 as well as 28.01.1991 as skilled workmen. Office memorandum dated 21.10.1990 reads as under:

'References have been received from some of the Superintending Engineers/Executive Engineers etc. seeking clarification regarding method of computing daily rates payable to daily rated workers of CPWD on the concept of equal pay for equal work. It has been decided that the following formula may be adopted for the purpose of working out daily rates of wages of daily rated workers of CPWD.

The total monthly emoluments admissible to regular counter parts of daily rated workers at the minimum of the respective scale of pay may be multiplied by number of days in a particular month after deducting therefrom the days of absence plus the days of rest falling in the week/weeks in which the worker remained absent and the result may be divided by the number of days in the month. The figure so arrived will be the daily rate of wages of the worker.

Illustration : Suppose number of days in a month is A, amount of emoluments in a particular month of a regular counterpart is B, number of days of absence of worker in a month is C and the number of rest days falling in the week/weeks on which the worker remained absent is D, then the formula for working out daily rates of wages of a daily rated worker would be as under:

$$\text{Daily rate of Wages} = A - (C + D) \times B$$

Note : If a worker works for all the working days in a month availing the admissible rest days, he is entitled to full wages admissible at the minimum stage of the respective scale of pay, including DA/HRA/CCA admissible to his regular counterparts.'

5. It is further averred that as per settlement arrived at between the management and CPWD Mazdoor Union signed before the Chief Labour Commissioner on 02.12.2002 is binding on both the parties under Section 18 of the Act and as per this notification also, workman is entitled for equal wages. Finally, prayer has been made for regularization of services of both the workmen as MLD with effect from 04.04.2003 alongwith all consequential benefits.

6. Notice of the petition was already given to the management when matter was received from the Assistant Labour Commissioner's office. However, fresh notice was sent to the management. Despite service of notice, management did not put up appearance. Accordingly, management was proceeded ex-parte vide order dated 07.07.2016.

7. Claimant, in order to prove his case against the management, examined Shri Baldev Singh as WW1 and tendered in evidence their affidavits, Ex. WW1/A and Ex. WW2/A respectively and also relied on documents Ex. WW1/1 to Ex. WW1/4. Shri Bal Kishan examined himself as WW2 and tendered in evidence his affidavit Ex. WW2/A and relied on documents Ex. WW2/1 and Ex. WW1/1 to Ex. WW1/3. It is clear from pleadings on record that Shri Baldev Singh was initially appointed as MLD on daily wage basis with effect from 01.12.1988 and his services were later on terminated on 30.09.1992. Later on, he was reinstated on the basis of award dated 22.02.2006.

8. During the course of arguments, attention of this Tribunal was invited to office order Ex. WW1/1, which clearly shows that on the basis of the said office order, services of Shri Vijay Chand was ordered to be regularized ante-date as he joined management prior to joining of some of his juniors whose services were regularized. This also shows that date of entry of Shri Vijay Chand on the muster roll is 13.01.1989.

9. There is also office order Ex. WW1/2, which in fact deals with grant of equal pay for equal work to the daily rated workers and compilation thereof. It has been clarified in the above office order that total monthly emoluments admissible to regular counter parts of daily rated workers at the minimum of the respective scale of pay may be

multiplied by number of days in a particular month after deducting therefrom the days of absence plus the days of rest falling in the week/weeks in which the worker remained absent and the result may be divided by the number of days in the month. The figure so arrived will be the daily rate of wages of the worker and in case daily rated workers worked for all the working days in a month including admissible rest days, he is entitled to full wages admissible at the minimum stage of the respective scale of pay, including DA/HRA/CCA admissible to his regular counterparts. There is also a memorandum of understanding Ex.WW1/5, which deals with the settlement vide which demands of the workmen were considered and allowed. In clause 5 of the above memorandum, it is clearly mentioned that resultant vacancies of workers working in the establishment of the management be filled up as per rules. Since matter was raised by the workmen through the union, as is clear from Ex.WW1/6 whereby General Secretary of the Union raised an industrial dispute regarding grievances of the workmen herein, as such, same was later on referred under section 10 for adjudication by this Tribunal. Affidavit filed by both the workmen, Ex.WW1/A and Ex.WW2/A are clearly on similar lines as the averments made in the statement of claim.

10. Hon'ble Supreme Court in the case of *Surinder Singh vs. Engineer-in-Chief, CPWD* (ATR 1986 SC 1976) decided on 17.01.1986, dealt with the question of equal pay for equal work in respect of daily rated workmen performing same duties which was being performed by their regular counterparts in the department. After discussing the ambit and scope of Article 14 of the Constitution of India, it was held that there should be equal pay for equal work of equal value. It makes no difference whether such workmen are employed against sanctioned post or not so long as they are performing the same duties. They must receive same salary and conditions of service must also be the same. Hon'ble Supreme Court also expressed anguish that most of the workers are kept in service on temporary basis as daily wage workers without their service being regularized, which is completely against the spirit of Article 14 of the Constitution of India.

11. Hon'ble Supreme Court in the case of *Director General Works, CPWD vs Devender Singh* considered the question of regularization as well as payment of equal wages for such daily rated workmen. Writ appeal filed against judgement dated 18.04.2004 of the Single Judge, whereby writ petition filed by the management was dismissed and award passed by Industrial Tribunal No. 2 was upheld. It was also the case of daily rated workers working on muster roll who were posted in various Divisions of the CPWD. In the said case, there is clear cut mention in para 9 of the judgment that when services of a junior has been regularized, there is no justification to deny such relief to workman who was senior to such worker., otherwise it would amount to discrimination, which is not permissible under the law, as has been held in *Secretary State of Karnataka vs. Uma Devi* (2006 4 SCC 1).

12. In the case on hand also it is clear from office order Ex.WW1/1 that Shri Vijay Chand, who was working on muster roll was regularized ante date 04.04.2003 and he was muster roll on 13.01.1989. In the present case, workman Shri Baldev Singh was engaged on daily wage basis on 11.02.1988. Since junior to him have already been regularized, as such, there is no reason or basis to deny regularization to such workmen. Hon'ble High Court in *Devender Singh* case(supra) referred to the decision of the Hon'ble Apex Court in the case of *Bal Kishan Vs. Delhi Administration* and observed as under:

10. In service, there could be only one norm for confirmation or promotion of persons belonging to the same cadre. No junior shall be confirmed or promoted without considering the case of his senior. Any deviation from this principle will have the emoralizing effect in service apart from being contrary to [Article 16\(1\)](#) of the Constitution.

13. There is also judgement dated 04.04.2006 of the Hon'ble High Court which also deals with the same matter, pertaining to the case of *Vijay Chand*. In the said judgement also, Tribunal has passed an award in respect of workman Shri Vijay Chand on the premise that regularization was granted to equally placed other three workmen, and there was no reason to deny the relief of regularization to Shri Vijay Chand who was similarly placed like the other three workmen. As such, direction was made for considering the case of the workman for regularization. Thereafter, matter was again taken by way of SLP before the Hon'ble Apex Court in the case titled *Union of India vs. Vijay Chand* decided on 07.01.2011. Contention of the management was rejected and order of regularization by the High Court and that of the Industrial Tribunal was reaffirmed as under:

'In our view, the direction given by the Tribunal for consideration of the respondent's case for regularization of service, as was done in the case of other three similarly situated persons, was legally correct and justified and the High Court did not commit any error by refusing to interfere with the order of the Tribunal. In the facts and circumstances of the case, we do not consider it to be a fit case for exercise of jurisdiction by the court under Article 136 of the Constitution.

The special leave petition is accordingly dismissed.'

14. Lastly, reliance was placed on behalf of the workman in the case of Director General: Works, CPWD vs Karam Singh and others. It was a case where the claimants were also party to the said case. Contention of the management regarding denial of relief of regularization and equal wages to such workmen who were performing similar kind of duties like their regular counter parts, was rejected by the Hon'ble High Court of Delhi and the calculation of the wages in terms of office order dated 21.10.1990 applicable for daily rated workers was upheld. It was further held when a particular award has attained finality, such daily rated workers were direct employee and are entitled for equal wages, there is no question of entertaining such plea time and again. Workman was held entitled to the recovery of amounts due under the impugned recovery certificate as ordered by the Tribunal.

15. It is, thus, clear from detailed discussions made herein above, that the workmen herein are daily rated workers and are working regularly since their initial appointment. When services of juniors to the workmen are regularized, there is no legal basis or justification in the wake of clear cut pronouncement made by the Hon'ble High Court of Delhi as well as Hon'ble Apex Court to deny regularization to the said workmen from the date mentioned in the petition.

16. This Tribunal cannot ignore the fact that the management has not cared to participate in the proceedings despite issuance of notice. There is no evidence led to the contrary by the management so as to rebut the allegations contained in the statement of claim. This Tribunal, is, otherwise entitled to draw adverse inference against the management for not participating in the proceedings and entering into the witness box. Accordingly, it is held that services of the workmen, Shri Baldev Singh and Shri Bal Kishan are entitled to be regularized as Motor Lorry Drivers with effect from 04.04.2003, the date when junior to them were regularized, with all consequential benefits. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : December 6, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 663.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 31/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.01.2017 को प्राप्त हुआ था।

[सं. एल-42011/185/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 663.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 31/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 05.01.2017.

[No. L-42011/185/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 31/2016

Shri Prem Singh S/o late Shri Kamal Singh, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi-110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No. 8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi-110 003
2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi 110- 019

...Managements

AWARD

Central Government, vide letter No. L-42011/185/2015-IR(DU) dated 31.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Prem Singh S/o late Shri Kamal Singh with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Prem Singh S/o late Shri Kamal Singh? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Prem Singh opted not to file his claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.
4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 20, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 664.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुक्त, दिल्ली नगर निगम (उत्तर), नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 224/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/125/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 664.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 224/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner, Municipal Corporation of Delhi (North), New Delhi and their workman, which was received by the Central Government on 07.12.2016.

[No. L-42011/125/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI****ID No. 224/2015**

The President,
MCD General Mazdoor Union (Regd.),
Room No. 95, Barack No.1/10,
Jam Nagar House,
New Delhi

...Workman

Versus

The Commissioner,
Municipal Corporation of Delhi (North),
9th Floor, Civic Centre, Minto Road,
New Delhi

...Management

AWARD

Present case was received from. Ministry of Labour and Employment vide order No.L-42011/125/2015-IR(DU) dated 27.10.2015 under sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) for adjudication of the industrial dispute and the same is as under:

“Whether the action of the management of North Delhi Municipal Corporation by not granting promotion to the position of Garden Choudhary in the pay scale of Rs.3050-4590 revised from time to time with effect from 01.06.2002 to Shri Ashok Kumar, S/o Shri Ram Lotan is fair and legal? If not, to what relief the workman is entitled to and from which date? “

2. As per averments contained in the statement of claim, Shri Ashok Kumar (hereinafter referred to as the claimant) has been performing duties as acting Choudhary and was also denied promotion on the ground that he is not 10th Agriculture and details of the workman are as under:

Sl. No.	Name	Father's name	Date of regular mali	Date for working as acting Chaudhary	Zone
1	Ashok Kumar	Ram Lotan	02.03.1989	01.06.2002	Karol Bagh

3. Initially the workman was working under Karol Bagh Horticulture Zone as acting Chaudhary with effect from 01.06.2002 to May 2009 and thereafter his services were transferred to Civil Lines Zone with effect from 16.06.2009 to 08.01.2013. Now again, he has been transferred back to Karol Bagh Zone with effect from 09.01.2013 and is continuously working as Garden Chaudhary till date. He was not allowed to participate in the promotion of Garden Chaudhary as per the stand of the management that he is not 10th Agriculture arbitrarily. In fact, there is no recruitment rule notified by the Government and the claimant belongs to SC category.

4. It is also the case of the workman that similarly situated acting chaudharis were allowed pay scale of Chaudhary from the date when they were performing duties as garden Chaudhary as per directions of the Tribunal in TA No.1317/2009 titled Sultan Singh & others Vs. MCD . Subsequently, an SLP was filed against the said judgement, which was also dismissed. Yet in another writ petition titled Sultan Singh Vs. MCD, Division Bench of Hon'ble High Court dated 15.03.2013 again directed the management comply with order dated 12.11.2010 and relevant part of the order is reproduced:

‘Accordingly, we dispose of the writ petition quashing the order dated November 12, 2010 passed by the Director (Horticulture). We direct the Director (Horticulture) to pass a fresh order after considering the relevant evidence strictly within the directions issued by the Tribunal in para 5 of the opinion dated January 29, 2010 disposing of TA No.1317/2009.’

5. It is necessary to mention here that order dated 12.11.2010 issued by the management was quashed by the Hon'ble High Court on 15.03.2013 in which management has taken stand as under:

‘As per Recruitment Regulations for the post of Garden Chaudhary, the method of recruitment to the said post is by selection to be made on the basis of a Trade Test. The RRs also envisage minimum educational qualifications as Matric or High School pass with agriculture as one of the subjects. Garden Chaudhary is a Grade C post and the Commissioner, MCD is the Appointing Authority for such posts. The applicants would be considered for promotion as Garden Chaudhary in accordance with Recruitment Regulation.’

6. After quashing of the order dated 12.11.2010, management again issued another order for payment of wages of higher post of Garden Chaudhary on 04.06.2013, copy of which is Annexure B, that under recruitment regulation notified for the post of Chaudhary and the management has unlawfully not allowed the claimant to participate in the selection/promotion process for the post of Chaudhary.

7. It is further alleged that MCD General Mazdoor Union vide letter dated 04.05.2010 requested the management not to alter recruitment rules in violation of provisions of Section 9A of the Act for promotion to the post of Chaudhary from Mali, hedgemen, machinemen and chowkidar etc. and the workman connected with the dispute cannot be discriminated on the ground of educational qualification. In many cases this Tribunal has held that recruitment rule for appointment of Chaudhary are not notified and Hon’ble High Court in a bunch of writ petitions on 26.02.200 held that 50% of promotional posts in which educational qualification are not required. Workman is still performing duty of Chaudhary in the establishment of the management. In similarly situated case of Shri Jai Chand Vs. MCD work of Chaudhary was restored and management was directed not to change service conditions without following principles of natural justice. Now, even junior persons to the claimant have been promoted as Chaudhary with effect from 04.03.2014 under promotion quota in the pay band Rs.5200-20200 + 1900 Grade pay plus usual allowances without providing opportunity to participate in promotional quota without imposing educational qualification as 10th agriculture, which they were not possessing. Finally, prayer has been made to promote the claimant as Garden Chaudhary under promotional quota with effect from 04.03.2014 and to grant pay scale of Chaudhary from 01.06.2002.

8. Management did not put in its appearance despite issuance of notice, as a result of which it was proceeded ex-parte vide order dated 04.04.2016.

9. Thereafter, claimant in support of his claim, examined himself as WW1 and Shri B.K. Prasad as WW2, whose affidavits are Ex.WW1/1 and Ex.WW1/2 and also tendered in evidence documents Ex.WW1/1 and Ex.WW2/1 and Ex.WW2/2.

10. I have heard Shri B.K. Prasad, A/R for the claimant.

11. It is neither in doubt nor in dispute that the claimant herein was initially employed on muster roll as mali and his services were regularized as mali on 02.03.1989. Thereafter, he was allotted work as acting Chaudhary with effect from June 2002. It is further clear from perusal of the list Ex.WW1/1 that name of the claimant appears at Serial No.14 of the list and the said list is issued by the management.

12. It was strongly contended on behalf of the workman that juniors to the claimant was allowed to participate in the promotional quote on regular basis but he was denied on the grounds that he was not possessing the requisite qualification of 10th Agriculture. Learned A/R for the claimant also urged that in Sultan Singh vs. MCD, Hon’ble High Court of Delhi has already issued clear cut directions that workmen who are officiating as acting Chaudhary are entitled to be considered for promotional post and they are also entitled to the promotion of the said post. Management instead of following the dicta laid down in the above judgement, framed recruitment rules for promotion to the post of Chaudhary. In this regard, attention of the Tribunal was invited to letter Ex.WW2/2, which was submitted to the Commissioner of MCD. In this letter, union has clearly clarified that recruitment rules shall not be applicable in case of those departmental candidates who are already holding post of mali, hedgeman machineman and chowkidar on regular basis. Order issued by the management to the contrary has been alleged to be wrong and illegal and violation of section 9 of the Act.

13. During the course of arguments, learned A/R for the claimant referred to the judgement of the Hon’ble High Court of Delhi in the case of Sultan Singh Vs. MCD in WP(C)No.7947/2010 decided on 27.07.2011 wherein similar question was involved. It was a case where workman was allotted duties of Garden Chaudhary though on substantive rank of Mali. Workman in the present case were claiming wages of Garden Chaudhary as he was performing duties of Garden Chaudhary. Industrial Adjudicator held that workman was entitled to salary of Garden Chaudhary and when the matter was taken to the Hon’ble High Court, it was held as under:

“28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents

are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un- sustainability or perversity in the orders of the Tribunal has been made out.

30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost.”

14. Learned A/R for the claimant also urged that this judgement of the Hon'ble High was challenged before the Hon'ble Supreme Court by way of SLP, which was dismissed as withdrawn on 09.04.2012. Situation in the case in hand is in no way different from the above cited case. In above case, workmen were initially appointed as Mali and later on they were performing duties of Garden Chaudhary or Garden Supervisor. As such it was held that they are entitled to salary of Garden Chaudhary. There is another authority of the Hon'ble High Court of Delhi titled 'MCD vs. Satender Singh, which was decided by the Hon'ble High Court on 23.03.2012 wherein similar question was involved and a careful appraisal of the above judgement shows that direct reliance was placed upon judgement in. Sultan Singh and others (supra) and workman was held entitled to the salary of Garden Chaudhary.

15. Law is fairly settled that if a person is working on a higher post, on adhoc or temporary post, then such an employee is entitled to the salary/wages of such higher post unless rules or regulations provide otherwise. I find support to this view of mine from the case of Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598).

16. Reliance was also placed upon the case of Brijesh Kumar vs MCD in CWP No.7669 of 2002 decided on 26.02.2004 by the Hon'ble High Court of Delhi. In the said case also, the undisputed facts were that workmen who are working as Chaudhary and as per serial No.7 of the notified Recruitment Regulations, educational qualification has been mentioned for the direct recruits. Serial No.10 of the recruitment rules in the case of promotion, the candidate is only required to undergo trade test and it is irrespective of his educational qualification. It was also brought to the notice of the Hon'ble High Court that the MCD has not effected any direct appointment for the last 20 years whereas Government of India is repeatedly issuing instructions to MCD that vacancies should be filled up in the year for which vacancies arise. Even these directions appear to have been thrown to the wind, resulting complete chaos and adhocism. Finally, Hon'ble High Court of Delhi has held that for the promotion to the post of Chaudhary, workman would be considered for promotion irrespective of qualification. MCD shall not club vacancies which have accrued year-wise to fill up the same as single-lot vacancy. It was specifically in the above case that promotion to the post of Chaudhary would be effected by the MCD amongst eligible malis.

17. Having regard to the ratio of the law in Sultan Singh (supra) case, as well as Brijesh Kumar case(supra), there is hardly any escape from the conclusion that the claimant herein is entitled to be considered for the post of Chaudhary from promotion quote. Equally forceful is the submission that junior persons cannot be promoted by ignoring the same, even if they were possessing the same qualification.

18. In the case of Bal Kishan vs Delhi Administration (1999 LLJ), wherein it was observed as under:

“In service, there could be only one norm for confirmation or promotion of persons belonging to the same cadre. No junior shall be confirmed or promoted without considering the case of his senior. Any deviation from this principle will have demoralizing effect in service apart from being contrary to [Article 16\(1\)](#) of the Constitution.

11. It is not shown that the seniors were not eligible for confirmation when the appellant was confirmed, Nor it is shown that the seniors were not suitable for promotion when the appellant was promoted. The appellant therefore could not complain against the corrective action taken by the respondents.”

19. As a sequel to my above discussion, it is held that the Shri Ashok Kumar, the claimant herein, it is held that the workman Shri Ashok Kumar was doing the work of Garden Supervisor since 01.06.2002 and from that date he is entitled to the wages of Garden Chaudhary and as a corollary, management is liable pay the difference of wages of mali vis-a-vis Garden Chaudhary from the date when the workman herein was performing duties and functions of Garden Chaudhary and he be promoted as Garden Chaudhary under promotional quote with effect from 04.03.2014, the date his juniors were promoted in the said category. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : December 1, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 665.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 57/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/211/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 665.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 57/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/211/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI****ID No. 57/2016**

Shri Prem Chander S/o Shri Gokul Yadav, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi-110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No.8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi-110 003
2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi-110 019

...Managements

AWARD

Central Government, vide letter No.L-42011/211/2015-IR(DU) dated 06.01.2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Prem Chander S/o Shri Gokul Yadav with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Prem Chander S/o Shri Gokul Yadav? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Prem Chander opted not to file his claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained

affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 22, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 56/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/210/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 666.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 56/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/210/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 56/2016

Shri Hari Singh Mehra S/o Shri Aan Singh Mehra, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi 110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No.8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi 110 003
2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi 110 019

...Managements

AWARD

Central Government, vide letter No.L-42011/210/2015-IR(DU) dated 06.01.2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Hari Singh Mehra, S/o Shri Aan Singh Mehra with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security

Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Hari Singh Mehra, S/o Shri Aan Singh Mehra? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Hari Singh Mehra opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 22, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 667.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1, दिल्ली सं. के पंचाट (संदर्भ संख्या 59/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/213/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 667.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 59/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/213/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 59/2016

Shri Rishi Pal S/o Shri Banku Ram, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi 110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No. 8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi 110 003

2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi 110 019

...Managements

AWARD

Central Government, vide letter No.L-42011/213/2015-IR(DU) dated 31.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Vinod Singh, S/o Shri Tulsi Ram Singh with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Shri Vinod Singh, S/o Shri Tulsi Ram Singh? If yes, what relief the workman is entitled to?

2. Vide letter No.L-42011/213/2015-IR(DU) dated 28.03.2016, Corrigendum was issued by the appropriate Government, vide which the schedule of reference was corrected as under:

“Whether the termination of Shri Rishi Pal S/o Shri Banku Ram with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE(Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Rishi Pal S/o Shri Banku Ram? If yes, what relief the workman is entitled to?

3. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Ashok Kumar Bal opted not to file his claim statement with the Tribunal.

4. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

5. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 25, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 668.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 20/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/174/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 668.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 20/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/174/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI****ID No. 20/2016**

Shri Swatanter Veer Singh S/o Shri Nem Singh, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi 110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No.8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi 110 003
2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi 110 019

...Managements

AWARD

Central Government, vide letter No.L-42011/174/2015-IR(DU) dated 30.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Swatanter Veer Singh S/o Shri Nem Singh with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE(Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Swatanter Veer Singh S/o Shri Nem Singh? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Swatanter Veer Singh opted not to file his claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.
4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 24, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 669.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, स्कोप और अन्य, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 21/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/175/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 3rd March, 2017

S.O. 669.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 21/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, SCOPE and other, New Delhi and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/175/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 21/2016

Shri Sidheshwar Vehuria S/o Shri Nityanand Vehuria, through
The President,
Delhi Offices and Establishment Employees Union
Affiliated to CITU, BTR Bhawan,
13 A, Rouse Avenue
New Delhi 110 019

...Workman

Versus

1. The General Manager,
SCOPE,
Core No.8, 1st Floor,
SCOPE - 7, Lodhi Road,
New Delhi 110 003
2. M/s Sentinels Security Pvt. Ltd.
40/93, 40/92, Chittaranjan Park,
New Delhi 110 019

...Managements

AWARD

Central Government, vide letter No.L-42011/175/2015-IR(DU) dated 30.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of Shri Sidheshwar Vehuria, S/o Shri Nityanand Vehuria with effect from 28.10.2014 by the management of Sentinels Security Pvt. Ltd. is just, fair and legal? If not, what relief the workman concerned is entitled to? Whether the contract awarded by SCOPE (Principal Employer) to Sentinels Security Pvt. Ltd. for employment of security guards in the establishment of principal employer can be construed as sham and bogus as requested by the workman Shri Sidheshwar Vehuria, S/o Shri Nityanand Vehuria? If yes, what relief the workman is entitled to?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Sidheshwar Vehuria opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : November 24, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 670.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 54/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/212/1995-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 3rd March, 2017

S.O. 670.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Dhanbad (I.D. No. 54/1996) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL, and their workmen, which was received by the Central Government on 03.03.2017.

[No. L-20012/212/1995-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.**Reference: No. 54/1996**

Employer in relation to the management of Bhowra Coke Plant, M/S BCCL

AND

Their workman

Present: Shri R.K.Saran, Presiding Officer**Appearances:**

For the Employers : Sri U.N.Lall Advocate

For the workman . : None

State : Jharkhand. Industry : Coal

Dated : 06/01/ 2017

AWARD

By order No. L-20012/212/1995-IR(C-I) dated 20/08/1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management to not provide employment to Shri Ram Karan Yadav Watchman at the time of taking over Mohalbani Bungalow forming the part of Bhowra Coke Plant is justified? If not, to what relief is Shri Yadav entitled? ”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 671.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

एवं श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 06/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/431/1997-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 3rd March, 2017

S.O. 671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Dhanbad (I.D. No. 06/1999) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL, and their workmen, which was received by the Central Government on 03.03.2017.

[No. L-20012/431/1997-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 06/1999

Employer in relation to the management of Bhowra (N) U.G. Mines of M/s. BCCL

AND

Their workman.

Present : Shri R.K.Saran, Presiding Officer

Appearances:

For the Employers : Sri U.N.Lall, Advocate

For the workman . : None

State : Jharkhand. Industry : Coal

Dated- 05/01/ 2017

AWARD

By order No. L-20012/431/1997-IR(C-I) dated 08/01/1999, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Bhowra (N) U.G. Mines of M/s BCCL in dismissing Sh. Rameshwar Das from the services of the company w.e.f. 21/07/1995 is justified? If not, to what relief the workman is entitled to ?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K.SARAN, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 672.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 52/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/205/1995-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 3rd March, 2017

S.O. 672.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Dhanbad

(I.D. No. 52/1996) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL, and their workmen, which was received by the Central Government on 03.03.2017.

[No. L-20012/205/1995-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act, 1947.**Reference : No. 52/1996**

Employer in relation to the management of Sudamdih Area M/s. BCCL

AND

Their workman.

Present : Shri R.K.Saran, Presiding Officer.**Appearances:**

For the Employers : Sri D.K Verma , Advocate

For the workman . : None

State : Jharkhand. Industry- Coal

Dated : 4/01/ 2017

AWARD

By order No. L-20012/205/1995-IR(C-I) dated 21/08/1996, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Sudamdih Area of M/s BCCL, in dismissing Sri Mahanand Modi, Loader from the services of the company is justified? If not, to what relief is the concerned workman entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 673.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 119/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/305/1995-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 3rd March, 2017

S.O. 673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Dhanbad (I.D. No. 119/1996) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL, and their workmen, which was received by the Central Government on 03.03.2017.

[No. L-20012/305/1995-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act, 1947.**Reference: No. 119 /1996**

Employer in relation to the management of East Katras Colliery, M/s B.C.C.L.

AND

Their workman

Present : Shri R.K.Saran, Presiding Officer.**Appearances:**

For the Employers : None
 For the workman . : None
 State : Jharkhand. Industry : Coal

Dated- 5/01/ 2017

AWARD

By order No. L-20012/305/1995-IR(C-I) dated 28/10/1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand by the Union for regularization as Night Guard of Shri Basudeo Chamar by the management of East Katras Colliery of M/S. B.C.C.L. is Justified? If so, to what relief is the said workman entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 3 मार्च, 2017

का.आ. 674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 53/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/209/1995-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 3rd March, 2017

S.O. 674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Dhanbad

(I.D. No. 53/1996) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL, and their workman, which was received by the Central Government on 03.03.2017.

[No. L-20012/209/1995-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.**Reference : No. 53/1996**

Employer in relation to the management of Govindpur Area of M/s. BCCL

AND

Their workman.

Present : Shri R.K.Saran, Presiding Officer

Appearances:

For the Employers : D.K. Verma, Advocate

For the workman : None

State : Jharkhand. Industry : Coal

Dated : 06/01/ 2017

AWARD

By order No. L-20012/209/1995-IR(C-I) dated 21/08/1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the Union that Sh. Bachu Ram is the dependent son of Shri Baldeo Harijan and, therefore, is eligible for employment under Para 9.4.3 is justified? If so, to what relief is the workman entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स मेट्रो रेल कारपोरेशन एवं अन्य उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 267/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/133/2015-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case CR No. 267/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Delhi Metro Rail Corporation and others, and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/133/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 267/2015

Shri Shiv Kumar, through
Indian Steel & Metal Workers Union (Regd.)
46, Nehru Market (Patera), Badarpur,
New Delhi – 110 044

...Workman

Versus

1. The Executive Director
M/s F.E.M.C. Pratibha JV,
C.-23, DMRC Project,
Near CNG Petrol Pump,
Pushp Vihar,
New Delhi 110 062
2. The Director,
M/s K.S.J. Dynamic Security Pvt. Ltd.
Plot No. 273, 2nd Floor, Old Delhi,
Gurgaon Road, Kapashera
New Delhi 110 037
3. M/s. Delhi Metro Rail Corporation
Metro Bhawan, 5th Floor, A Wing,
Fire Brigade Lane,
Barakhamba Road, Connaught Place,
New Delhi 110 001

...Managements

AWARD

Central Government, vide letter No.L-42011/133/2015-IR(DU) dated 08.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether services of the workman Shri Shiv Kumar S/o Shri Ram Khalifa has been terminated illegally and/or unjustifiably by the management and if so, to what relief is the workman entitled and what directions are necessary in this respect’.

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Shiv Kumar opted not to file his claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.
4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated : November 24, 2016

नई दिल्ली, 6 मार्च, 2017

का.आ. 676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स गोएल कंस्ट्रक्शन एंड इंजीनियर्स नई दिल्ली एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 22/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42012/179/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID Case CR No. 22/2015) of the Central Government Industrial Tribunal-

cum-Labour Court, No. 1 New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Goel Construction and Engineers New Delhi, and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42012/179/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 22/2015

Shri Mahesh Kumar,
Through Indian Steel and Metal Workers Union,
1800/9, Govindpuri Extension,
Main Road, Kalkaji,
New Delhi-110 019

...Workman

Versus

1. M/s Goel Construction & Engineers,
C – 503, JVTs Garden,
Chhattarpur Extension,
New Delhi-110 074

2. Health and Family Welfare Centre,
Baba Ganga Nath Marg,
Munirka,
New Delhi-110 067

...Managements

AWARD

Central Government, vide letter No. L-42012/179/2014-IR(DU) dated 08.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of the workman Shri Mahesh Kumar S/o Shri Manohar Singh by the management of M/s. Goel Construction & Engineers a sub contractor of NPCC in the establishment of National Health and Family Welfare Centre, Principal Employer w.e.f. 12.06.2013 is just, fair and legal? If not, what relief the workman concerned is entitled to?

2. Claim Statement was filed wherein it is averred that Shri Mahesh Kumar, the claimant herein, was engaged by National Health and Family Welfare Centre (hereinafter referred to as the management) through M/s. Goel Construction and Engineers (in short the contractors) as helper and his last drawn wages was Rs. 7,254.00. The contractors were fake and was interposed by the management so as to deprive the workers benefits under the labour legislation, viz. minimum wages, ESI, PF, leaves, bonus, identity card etc. More than 25 workers were engaged by the management. Claimant had a clean record and there was no kind of complaint against him.

3. At the time of his engagement, the claimant herein was made to sign on blank papers, vouchers and appointment letter, copies of which was not provided to him. Since the claimant herein demanded facilities of PF, ESI etc., the management was annoyed and his services were done away with on 12.06.2013. The claimant has not been paid wages for the period from 01.05.2013 to 11.06.2013. The claimant had put in 240 days of continuous service in each year preceding his termination. No one month's notice or pay in lieu thereof was paid to the claimant before his termination. Juniors to him are still employed with the Contractor and fresh appointments have also been made. Demand notice was served on the management on 15.06.2013, but the management neither replied to the same nor was taken back on duty. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication. He claims reinstatement in service with continuity and full back wages.

4. Claim was contested by the Health and Family Welfare Centre (Management No. 2) averring that there is no industrial dispute between the workman and Management No. 2, who had in fact awarded contract for civil and electrical maintenance to NPCC Ltd., a Government of India Enterprises, who in turn awarded the contract to M/s. Goel Construction and Engineers (Management No. 1) for execution of civil maintenance work. Terms and conditions regarding payment of wages, EPF, ESIC, bonus, leave etc. to the employees engaged by management No. 1 was made by NPCC Ltd. The workman was never on the pay rolls of Management No. 2. Hence management No. 2 has no direct control over them. Various other preliminary objections, including lack of jurisdiction of this Tribunal to adjudicate the case, claim being barred by limitation etc. Finally, it has been prayed that the claim may be dismissed.

5. Management No.1, despite affording various opportunities, failed to file its statement of defence and hence was proceeded ex-parte on 12.10.2015.

6. On the basis of pleadings of the parties, this Tribunal vide order dated 08.04.2016 framed the following issues:

(i) Whether the reference herein is not legally maintainable in view of the various preliminary objections raised by the management?

(ii) As in terms of reference

7. Thereafter, case was listed for evidence of the claimant. In spite of affording three opportunities, evidence of the claimant was not present. Thus, it is clear that the workman is not interested in adjudication of the case on merits.

8. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

November 25, 2016

नई दिल्ली, 6 मार्च, 2017

का.आ. 677.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स गोएल कंस्ट्रक्शन एंड इंजीनियर्स नई दिल्ली एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 20/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42012/177/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 677.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case CR No. 20/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Goel Construction and Engineers New Delhi, and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42012/177/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 20/2015

Shri Gopi Lal,
Through Indian Steel and Metal Workers Union,
1800/9, Govindpuri Extension, Main Road, Kalkaji,
New Delhi-110 019

...Workman

Versus

1. M/s. Goel Construction & Engineers,
C – 503, JVTS Garden,
Chhattarpur Extension,
New Delhi-110 074

2. Health and Family Welfare Centre,
Baba Ganga Nath Marg,
Munirka, New Delhi – 110 067

...Managements

AWARD

Central Government, vide letter No. L-42012/177/2014-IR(DU) dated 08.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of the workman Shri Gopi Lal S/o Shri Kishori Lal by the management of M/s. Goel Construction & Engineers a sub contractor of NPCC in the establishment of National Health and Family Welfare Centre, Principal Employer w.e.f. 12.06.2013 is just, fair and legal? If not, what relief the workman concerned is entitled to?

2. Claim Statement was filed wherein it is averred that Shri Gopi Lal, the claimant herein, was engaged by National Health and Family Welfare Centre (hereinafter referred to as the management) through M/s Goel Construction and Engineers (in short the contractors) as helper and his last drawn wages was Rs. 7,254.00. The contractors were fake and was interposed by the management so as to deprive the workers benefits under the labour legislation, viz. minimum wages, ESI, PF, leaves, bonus, identity card etc. More than 25 workers were engaged by the management. Claimant had a clean record and there was no kind of complaint against him.

3. At the time of his engagement, the claimant herein was made to sign on blank papers, vouchers and appointment letter, copies of which was not provided to him. Since the claimant herein demanded facilities of PF, ESI etc., the management was annoyed and his services were done away with on 12.06.2013. The claimant has not been paid wages for the period from 01.05.2013 to 11.06.2013. The claimant had put in 240 days of continuous service in each year preceding his termination. No one month's notice or pay in lieu thereof was paid to the claimant before his termination. Juniors to him are still employed with the Contractor and fresh appointments have also been made. Demand notice was served on the management on 13.06.2013, but the management neither replied to the same nor was taken back on duty. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication. He claims reinstatement in service with continuity and full back wages.

4. Claim was contested by the Health and Family Welfare Centre (Management No. 2) averring that there is no industrial dispute between the workman and Management No. 2, who had in fact awarded contract for civil and electrical maintenance to NPCC Ltd., a Government of India Enterprises, who in turn awarded the contract to M/s Goel Construction and Engineers (Management No.1) for execution of civil maintenance work. Terms and conditions regarding payment of wages, EPF, ESIC, bonus, leave etc. to the employees engaged by management No.1 was made by NPCC Ltd. The workman was never on the pay rolls of Management No. 2. Hence management No. 2 has no direct control over them. Various other preliminary objections, including lack of jurisdiction of this Tribunal to adjudicate the case, claim being barred by limitation etc. Finally, it has been prayed that the claim may be dismissed.

5. Management No.1, despite affording various opportunities, failed to file its statement of defence and hence was proceeded ex-parte on 12.10.2015.

6. On the basis of pleadings of the parties, this Tribunal vide order dated 08.04.2016 framed the following issues:

- (i) Whether the reference herein is not legally maintainable in view of the various preliminary objections raised by the management?
- (ii) As in terms of reference

7. Thereafter, case was listed for evidence of the claimant. In spite of affording three opportunities, evidence of the claimant was not present. Thus, it is clear that the workman is not interested in adjudication of the case on merits.

8. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

November 25, 2016

नई दिल्ली, 6 मार्च, 2017

का.आ. 678.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स गोएल कंस्ट्रक्शन एंड इंजीनियर्स नई दिल्ली एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 16/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42012/173/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 678.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case CR No. 16/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Goel Construction and Engineers New Delhi, and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42012/173/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 16/2015

Shri Chhater Pal,
Through Indian Steel and Metal Workers Union,
1800/9, Govindpuri Extension,
Main Road, Kalkaji, New Delhi-110 019

...Workman

Versus

1. M/s. Goel Construction & Engineers,
C – 503, JVTS Garden,
Chhattarpur Extension,
New Delhi - 110 074

2. Health and Family Welfare Centre,
Baba Ganga Nath Marg,
Munirka, New Delhi – 110 067

...Managements

AWARD

Central Government, vide letter No. L-42012/173/2014-IR(DU) dated 08.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of the workman Shri Chhater Pal S/o Shri Molgu Pal by the management of M/s. Goel Construction & Engineers a sub contractor of NPCC in the establishment of National Health and Family Welfare Centre, Principal Employer w.e.f. 12.06.2013 is just, fair and legal? If not, what relief the workman concerned is entitled to?

2. Claim Statement was filed wherein it is averred that Shri Chhater Pal, the claimant herein, was engaged by National Health and Family Welfare Centre (hereinafter referred to as the management) through M/s Goel Construction and Engineers (in short the contractors) as helper and his last drawn wages was Rs. 7,254.00. The contractors were fake and was interposed by the management so as to deprive the workers benefits under the labour legislation, viz. minimum wages, ESI, PF, leaves, bonus, identity card etc. More than 25 workers were engaged by the management. Claimant had a clean record and there was no kind of complaint against him.

3. At the time of his engagement, the claimant herein was made to sign on blank papers, vouchers and appointment letter, copies of which was not provided to him. Since the claimant herein demanded facilities of PF, ESI etc., the management was annoyed and his services were done away with on 12.06.2013. The claimant has not been paid wages for the period from 01.05.2013 to 11.06.2013. The claimed had put in 240 days of continuous service in each year preceding his termination. No one months' notice or pay in lieu thereof was paid to the claimant before his termination. Juniors to him are still employed with the Contractor and fresh appointments have also been made. Demand notice was served on the management on 13.06.2013, but the management neither replied to the same nor was

taken back on duty. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication. He claims reinstatement in service with continuity and full back wages.

4. Claim was contested by the Health and Family Welfare Centre (Management No. 2) averring that there is no industrial dispute between the workman and Management No. 2, who had in fact awarded contract for civil and electrical maintenance to NPCC Ltd., a Government of India Enterprises, who in turn awarded the contract to M/s Goel Construction and Engineers (Management No.1) for execution of civil maintenance work. Terms and conditions regarding payment of wages, EPF, ESIC, bonus, leave etc. to the employees engaged by management No.1 was made by NPCC Ltd. The workman was never on the pay rolls of Management No. 2. Hence management No. 2 has no direct control over them. Various other preliminary objections, including lack of jurisdiction of this Tribunal to adjudicate the case, claim being barred by limitation etc. Finally, it has been prayed that the claim may be dismissed.

5. Management No.1, despite affording various opportunities, failed to file its statement of defence and hence was proceeded ex-parte on 12.10.2015.

6. On the basis of pleadings of the parties, this Tribunal vide order dated 08.04.2016 framed the following issues:

- (i) Whether the reference herein is not legally maintainable in view of the various preliminary objections raised by the management?
- (ii) As in terms of reference

7. Thereafter, case was listed for evidence of the claimant. In spite of affording three opportunities, evidence of the claimant was not present. Thus, it is clear that the workman is not interested in adjudication of the case on merits.

8. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

November 25, 2016

नई दिल्ली, 6 मार्च, 2017

का.आ. 679.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स गोएल कंस्ट्रक्शन एंड इंजीनियर्स नई दिल्ली एवं उनके कर्मचारी, के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 19/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42012/176/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 679.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case CR No. 19/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Goel Construction and Engineers New Delhi, and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42012/176/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 19/2015

Shri Bharat,
Through Indian Steel and Metal Workers Union,
1800/9, Govindpuri Extension,
Main Road, Kalkaji,
New Delhi-110 019

...Workman

Versus

1. M/s. Goel Construction & Engineers,
C – 503, JVTS Garden,
Chhattarpur Extension,
New Delhi-110 074
2. Health and Family Welfare Centre,
Baba Ganga Nath Marg,
Munirka, New Delhi – 110 067

...Managements

AWARD

Central Government, vide letter No. L-42012/176/2014-IR(DU) dated 08.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of the workman Shri Bharat S/o Shri Shankar by the management of M/s. Goel Construction & Engineers a sub contractor of NPCC in the establishment of National Health and Family Welfare Centre, Principal Employer w.e.f. 12.06.2013 is just, fair and legal? If not, what relief the workman concerned is entitled to?

2. Claim Statement was filed wherein it is averred that Shri Bharat, the claimant herein, was engaged by National Health and Family Welfare Centre (hereinafter referred to as the management) through M/s Goel Construction and Engineers (in short the contractors) as helper and his last drawn wages was Rs. 7,254.00. The contractors were fake and was interposed by the management so as to deprive the workers benefits under the labour legislation, viz. minimum wages, ESI, PF, leaves, bonus, identity card etc. More than 25 workers were engaged by the management. Claimant had a clean record and there was no kind of complaint against him.
3. At the time of his engagement, the claimant herein was made to sign on blank papers, vouchers and appointment letter, copies of which was not provided to him. Since the claimant herein demanded facilities of PF, ESI etc., the management was annoyed and his services were done away with on 12.06.2013. The claimed had put in 240 days of continuous service in each year preceding his termination. No one months’ notice or pay in lieu thereof was paid to the claimant before his termination. Juniors to him are still employed with the Contractor and fresh appointments have also been made. Demand notice was served on the management on 13.06.2013, but the management neither replied to the same nor was taken back on duty. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication. He claims reinstatement in service with continuity and full back wages.
4. Claim was contested by the Health and Family Welfare Centre (Management No. 2) averring that there is no industrial dispute between the workman and Management No. 2, who had in fact awarded contract for civil and electrical maintenance to NPCC Ltd., a Government of India Enterprises, who in turn awarded the contract to M/s Goel Construction and Engineers (Management No. 1) for execution of civil maintenance work. Terms and conditions regarding payment of wages, EPF, ESIC, bonus, leave etc. to the employees engaged by management No. 1 was made by NPCC Ltd. The workman was never on the pay rolls of Management No. 2. Hence management No. 2 has no direct control over them. Various other preliminary objections, including lack of jurisdiction of this Tribunal to adjudicate the case, claim being barred by limitation etc. Finally, it has been prayed that the claim may be dismissed.
5. Management No.1, despite affording various opportunities, failed to file its statement of defence and hence was proceeded ex-parte on 12.10.2015.
6. On the basis of pleadings of the parties, this Tribunal vide order dated 08.04.2016 framed the following issues:
 - (i) Whether the reference herein is not legally maintainable in view of the various preliminary objections raised by the management?
 - (ii) As in terms of reference
7. Thereafter, case was listed for evidence of the claimant. In spite of affording three opportunities, evidence of the claimant was not present. Thus, it is clear that the workman is not interested in adjudication of the case on merits.
8. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

November 25, 2016

नई दिल्ली, 6 मार्च, 2017

का.आ. 680.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स गोएल कंस्ट्रक्शन एंड इंजीनियर्स नई दिल्ली एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 15/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42012/172/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 680.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case CR No. 15/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Goel Construction and Engineers New Delhi, and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42012/172/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI****ID No. 15/2015**

Shri Karan,
Through Indian Steel and Metal Workers Union,
1800/9, Govindpuri Extension,
Main Road, Kalkaji,
New Delhi-110 019

...Workman

Versus

1. M/s. Goel Construction & Engineers,
C – 503, JVTs Garden,
Chhattarpur Extension,
New Delhi-110 074
2. Health and Family Welfare Centre,
Baba Ganga Nath Marg,
Munirka, New Delhi

...Managements

AWARD

Central Government, vide letter No. L-42012/172/2014-IR(DU) dated 08.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the termination of the workman Shri Karan S/o Shri Ganesh by the management of M/s. Goel Construction & Engineers a sub contractor of NPCC in the establishment of National Health and Family Welfare Centre, Principal Employer w.e.f. 12.06.2013 is just, fair and legal? If not, what relief the workman concerned is entitled to?

2. Claim Statement was filed wherein it is averred that Shri Karan, the claimant herein, was engaged by National Health and Family Welfare Centre (hereinafter referred to as the management) through M/s Goel Construction and Engineers (in short the contractors) as helper and his last drawn wages was Rs. 8814.00. The contractors were fake and was interposed by the management so as to deprive the workers benefits under the labour legislation, viz. minimum wages, ESI, PF, leaves, bonus, identity card etc. More than 25 workers were engaged by the management. Claimant had a clean record and there was no kind of complaint against him.

3. At the time of his engagement, the claimant herein was made to sign on blank papers, vouchers and appointment letter, copies of which was not provided to him. Since the claimant herein demanded facilities of PF, ESI etc., the management was annoyed and his services were done away with on 12.06.2013. The claimant has not been paid wages for the period from 01.05.2013 to 11.06.2013. The claimant had put in 240 days of continuous service in each year preceding his termination. No one months' notice or pay in lieu thereof was paid to the claimant before his

termination. Juniors to him are still employed with the Contractor and fresh appointments have also been made. Demand notice was served on the management on 13.06.2013, but the management neither replied to the same nor was taken back on duty. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication. He claims reinstatement in service with continuity and full back wages.

4. Claim was contested by the Health and Family Welfare Centre (Management No. 2) averring that there is no industrial dispute between the workman and Management No. 2, who had in fact awarded contract for civil and electrical maintenance to NPCC Ltd., a Government of India Enterprises, who in turn awarded the contract to M/s Goel Construction and Engineers (Management No. 1) for execution of civil maintenance work. Terms and conditions regarding payment of wages, EPF, ESIC, bonus, leave etc. to the employees engaged by management No. 1 was made by NPCC Ltd. The workman was never on the pay rolls of Management No. 2. Hence management No. 2 has no direct control over them. Various other preliminary objections, including lack of jurisdiction of this Tribunal to adjudicate the case, claim being barred by limitation etc. Finally, it has been prayed that the claim may be dismissed.

5. Management No. 1, despite affording various opportunities, failed to file its statement of defence and hence was proceeded ex-parte on 12.10.2015.

6. On the basis of pleadings of the parties, this Tribunal vide order dated 08.04.2016 framed the following issues:

- (i) Whether the reference herein is not legally maintainable in view of the various preliminary objections raised by the management?
- (ii) As in terms of reference

7. Thereafter, case was listed for evidence of the claimant. In spite of affording three opportunities, evidence of the claimant was not present. Thus, it is clear that the workman is not interested in adjudication of the case on merits.

8. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

November 25, 2016

नई दिल्ली, 6 मार्च, 2017

का.आ. 681.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ कमिशनर, सेंट्रल एक्साइज एंड सर्विस टैक्स, भुवनेश्वर एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 52/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/99/2013-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 681.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case CR No. 52/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the Chief Commissioner, Central Excise, Customs and Service Tax, Bhubaneswar and their workman, which was received by the Central Government on 18.11.2016.

[No. L-42011/99/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present : Shri B.C. Rath, Presiding Officer,

C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 52/2013

Date of Passing Award – 31st October, 2016

Between:

The Chief Commissioner,
Central Excise, Customs & Services Tax,
Bhubaneswar Zone, CR Building,
Rajeaswa Vihar, Bhubaneswar (Orissa)
Pin – 751 007.

1st Party-Management.

AND

The General Secretary,
Central Excise, Customs & Service Tax,
Shramik Sangh, Plot No. 32, Ashok Nagar,
Bhubaneswar (Orissa) – 751 009

...2nd Party-Union.

Appearances:

Shri Tapas Kr. Nayak,
Asst. Commissioner (CCO)

...For the 1st Party
Management.

Shri Banambar Lenka,

...For the 2nd Party- Union

AWARD

This award is directed against the reference on the following schedule:—

“Whether the claim of Central Service Customs & Service Tax Sramik Sangh that the action of Central Excise & Customs & Service Tax Office, Bhubaneswar in terminating the services of 104 workers (list enclosed) without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? To what relief the workmen are entitled to?

Made by the Government of India, Ministry of Labour & Employment between the employers in relation to the Management of Central Excise, Customs & Service Tax and their workmen in exercise of the powers conferred by clause (d) of Sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide letter No. L-42011/99/2013 – IR(DU), dated 18.07.2013.

2. The case of the 2nd party-Union, in short, as revealed during the adjudication of the reference is that the 1st Party-Management is an establishment under the Ministry of Finance and Department of Revenue, Government of India, New Delhi and it has offices of Commissionerates, Divisions and Range at Bhubaneswar and other places through-out the State of Odisha. The listed 104 persons are stated to have been employed/engaged as casual/daily labour temporarily in different offices of the 1st Party-Management to carry out the work of sweeping, cleaning, dusting, for fetching of drinking water and for other purposes. They had been discharging their duties for the 15 to 20 years with their sincerity and devotion till they are illegally terminated/retrenched/disengaged on 12.4.2013. During their engagement they were paid minimum wages as fixed from time to time and expenditure towards their wage met from different heads like wage head, contingent head and office expenses head by the offices of the 1st Party-Management. The disputant workmen were receiving such wages directly from the 1st Party-Management. It has been alleged that the Management has changed the service condition of those disputant workmen without following the due procedure of law or any intimation to the workmen and treated them as contract labourer in pen and paper only in their office record. None of such workmen was ever engaged to work in the office of the Management through any labour contractor or service provider and no agreement or contract was ever executed between the Management and any labour contractor/service provider for such alleged contractual appointment till their termination. It is the contention of the 2nd party-Union that the workmen formed an Union and filed a petition before the Labour machinery on 23.07.2012 raising several demands including regularization of their services and implementation of 1/30th wage scheme to the disputant workmen. In spite of issue of several notices to both the parties by the Regional Labour Commissioner (Central) for an enquiry into the matter and for an amicable settlement, the Management did not attend in any of the conciliation proceedings held from time to time at the initiation of the labour machinery after submitting its show cause. In their show cause to the labour machinery the Management took a stand that it was not coming under the purview of the Industrial Disputes Act. In view of such attitude of the Management the Union served a notice to the Management on 18.3.2013 intimating to sit on dharana for fulfillment of their just, legal and genuine demands with a copy of the notice to the labour machinery. According to the 2nd party-Union on receipt of such notice the Management did not allow any of the disputant workmen to discharge their duties and refused employment to all of them which amounts to termination/retrenchment/disengagement from service. It has been, further, pleaded that no notice pay or compensation in lieu of retrenchment of their service was paid to them despite they had been employed for more than 15 to 20 years in various offices of the Management and they were working continuously for more than 240 days in each year of their

employment in the offices of the Management. After their such disengagement/retranchment the Management invited tender from service providers/labour contractor to carry out the work of cleaning, dusting, gardening etc. through contract labourer. It is the stand of the 2nd party-Union is that the work/job for which the disputant workmen were engaged are perennial in nature and required in day to day administration of the offices of the Management for which it has employed contract labourers presently after refusal of employment to them. Such refusal of employment to the disputant workmen without compliance of the provisions as enumerated in Section 25-F, G and H is amounting to illegal retranchment and as such prayer has been advanced on behalf of the Union that all the workmen should be reinstated with all back wages and other benefits.

3. In its written statement the 1st Party-Management has denied the allegations raised by the 2nd party-Union and pleaded inter alia that none of the alleged workmen was ever employed either a casual or temporary worker in its establishment. There was a contractual employment in the different offices of the Management for the purpose of sweeping, cleaning, dusting and for supply of drinking water to its employees. They were given a fixed amount towards their wages for part time job and their appointment was not against any sanctioned posts or for specific work. Thus, their engagement was purely contractual for a fixed period. Hence, benefits under the scheme of temporary status cannot be extended to such contractual labourers. According to the 1st Party-Management Writ as well as application were filed before Hon'ble High Court and the Hon'ble Central Administrative Tribunal for regularization of services of such workmen. As their claim has no merit for consideration, the case preferred before the CAT as well as the writ appeal filed in the Hon'ble High Court was dismissed. The workmen were neither appointed under any Recruitment Rules nor their appointment was made against any sanctioned posts. They left their contractual job on their own volition and sat in Dharana with effect from 10.4.2013 in the front of office of the Management at Bhubaneswar. There was no employer and employee relationship between the disputant workmen and the Management. Having been appointed as contract labour/contractually and failing to report to their duty on 10.4.2013, the Management had no option than to engage other contract labours through service providers to carry out the works of cleaning, dusting, sweeping etc. Besides, the job of sweeping, cleaning, dusting and supply of water etc. is being carried out through service providers/contractors as per new policy of the Government and the disputant workmen being contractually appointed for a specific period and their appointments being through labour contractor and as they left their jobs on their own volition, the allegation of their illegal termination, retranchment or disengagement is not correct and for the above reasons the workmen are not entitled to any relief as claimed in their statement of claim. Further, the maintainability of the reference is also challenged by the Management on a stand that the office of the Central Excise and Customs under the Ministry of Finance is not an "Industry" and there is no "employer and employee" relationship between the Management and the disputant workmen in the event of their appointment was purely contractual.

4. On the aforesaid pleadings of the parties following issues were framed for proper adjudication of the reference.

ISSUES

1. Whether the claim of Central Excise, Customs & service Tax Shramik Sangh, that the action of Central Excise, Customs & Service Tax Office, Bhubaneswar in terminating the services of 104 workers without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified?
2. To what relief the workers are entitled to?

5. The 2nd Party-Union has adduced oral evidence by examining two disputant workmen namely Shri Dipti Ranjan Nayak and Shri Babu Nayak as W.W.1 and W.W.-2 and filed a good number of documents like copy of statement of claim, copy of union registration certificate, copy of list of 104 numbers of workmen, photo-copy of Section 2(J) of I.D. Act, letter of 2nd party dated 23.7.2012 to R.L.C.(C), Bhubaneswar, copy of notices issued to the 1st Party by the R.L.C.(C), Bhubaneswar, copy of notice dated 18.3.2012 issued by the Union, copy of reply of the 1st Party dated 9.4.2013 to R.L.C.(C), Bhubaneswar, copy of letter issued by the Union on 29.4.2013 addressed to R.L.C.(C), Bhubaneswar, copy of FOC report dated 7.5.2013 of R.L.C.(C), Bhubaneswar, copy of letter of R.L.C.(C), Bhubaneswar dated 7.5.2013, copy of letter of Union to R.L.C.(C), Bhubaneswar, copy of letter to R.L.C.(C), by the Union dated 17.5.2013, copy of letter of Union to Dy. C.L.C.(C), Bhubaneswar dated 22.5.2013, copy of notice of hunger strike dated 4.6.2013, copies of notice issued by R.L.C.(C) Bhubaneswar to the 1st Party-Management, copy of appeal date 20.5.2013 issued by Union, copy of hunger strike withdrawal letter of Union, copy of letters of 2nd party dated 19.6.2014, copy of letter dated 30.5.2013 issued by the 2nd party, copy of letter dated 21.6.2013 issued by the Union, copy of the letter of R.L.C.(C) BBSR to Field Officers regarding invitation of tenders by the 1st Party, copy of information under R.T.I. Act, 2005 received from L.E.O(C) Bhubaneswar-II regarding his inspection in 1st Party-Management, copy of F.O.C report of R.L.C.(C), BBSR dated 5.6.2013, copy of reference of Ministry dated 18.7.2013, copy of letter dated 30.4.2014 and copy of letter dated 9.9.2014 which are marked as Ext. -1 to 27 without any objection from the side of the Management to establish their allegations and reliefs. Except relying upon the Annexures filed along with the written statement the Management did not like to adduce any sort of evidence during the adjudication proceeding. The annexures are the correspondence between the Government of India, Ministry of Finance to the Management, photocopy of the award and judgement of the Hon'ble High Court.

FINDINGS**ISSUES NO. 1 & 2**

6. As per the oral testimony of the W.W.-1 and W.W.-2 they were engaged as a casual Farash and casual sweeper with effect from 9.6.1997 and 9.1.1995 respectively in the office of the 1st Party-Management at Bhubaneswar and they continued in their services till 10.4.2013 without any interruption and they were paid minimum wages as fixed from time to time. Like them other workmen were also engaged as casual labours under the 1st Party-Management in its different offices with effect from different dates and they were also receiving minimum wages fixed from time to time. All of them worked with the Management for a period of 15 to 20 years continuously till their so-called disengagement with effect from 11.4.2013. According to them when a memorandum was issued to the 1st Party-Management raising a demand of implementation of 1/30 wage scheme to all of them and notice was issued appraising the Management for a proposed Dharana after failure of conciliation proceeding before the labour machinery they were not allowed to work in the offices of the 1st Party-Management which amounted to termination of their service. It is their further version that all workmen were performing their duties with all sincerity and devotion completing 240 days continuous work in each calendar year with a hope of regularization of their services. Despite their engagement for 15 to 20 years and discharge of their service continuously for more than 240 days in a calendar year they were refused employment without notice pay and compensation violating the provisions of Section 25-F. It has been further stated by them that after refusal of service to them the 1st Party-Management has hired and engaged about 100 fresh workmen through an outsourcing agency and such deployment of workmen is a clear-cut violation of provisions of Section 25-H of the Industrial Disputes Act. While adducing their evidence the witnesses have proved and exhibited photocopies of documents mentioned above. It is apparent from their cross examination as well as from the pleadings and contentions advanced by the Management that there is no serious dispute to the claim of the 2nd party-Union that those 104 workmen were employed and discharging different nature of jobs like sweeping, cleaning, dusting, gardening supplying drinking water etc. in the offices of the 1st Party-Management situated at different locations. There is also no serious dispute in regard to the length of their engagement as well as nature of works performed by them in the offices of the 1st Party-Management except the nature of their employment and mode of their disengagement. The primary stand of the 1st Party-Management is that the nature of employment of such workmen was purely contractual and time bound and their engagement was contract labour.

As such, their alleged disengagement has no protection under any provisions of the Industrial Disputes Act. It has also been contended that the Management was required to take the assistance of the service providers to do the jobs of the disputant workmen when they failed to report their duty on their own volition and sat in Dharana. As such there was no question of illegal retrenchment, termination or disengagement of the disputant workmen warranting any interference by the Tribunal.

7. Coming to the pleading of contractual employment as raised by the Management it is seen that not a single scrap of paper is filed by the Management to support their view that the workmen were given contractual and time bound employment. No document is also filed to establish that the workmen were contract labourer or they were paid through contractor having engaged by the contractor for doing sweeping, cleaning, dusting and other works in the offices of the 1st Party-Management. Neither any appointment letter or work order has been filed by the Management to show that any of the disputant workmen was engaged contractually for a specific period. On the other hand some of the documents relied upon by the 2nd party-Union, which are not been seriously disputed by the 1st Party-Management and annexure No. 1/A, 1/B, 2 and 3 filed by the 1st Party-Management along with its written statement and the same being various correspondences between the 1st Party-Management to their superior authorities more particularly letter No. C.II(31)1/ET/BBSR-II/2007-13347 dated 15.01.2008 and letter No. C. No. II(22)/1/H.Q/B-II/2007, dated 25.2.2008 clearly indicate that the workmen/casual labourers had been engaged for more than ten years till 2005 and those workers are now being shown as contract workers. The correspondence further reveals that there was neither any contract nor any service contractor and their disengagement was not successful due to intervention of Hon'ble CAT who have granted ad-interim stay in O.A. Case No. 606/2005, 634/2005, 855/2005. The contents of the above correspondences if taken into consideration along with the testimony advanced by W.W.-1 and W.W.-2 and the failure on the part of the Management adducing any evidence including non-filing of any agreement/work order issued to any contract labourer or letter of contractual appointment, the Tribunal has no alternative than to accept the version of W.W.-1 and W.W.-2 that the disputant workmen were engaged temporarily/casually for a considerable period before they are being shown as contract labourer/contractual appointees as mentioned in various internal official correspondences of the Management. No contractor has also been examined on behalf of the 1st Party-Management to prove that the disputant workmen were engaged through service providers as a contract labourer. The orders of the Hon'ble High Court and the Hon'ble C.A.T. arising out of Writ No. 17449/2008 and O.A. No. 278/2008 go to show that the orders were passed in different contexts and the issue before them was related to regularization of the service of the disputant workmen or conferment of temporary status. Whether the workmen were given contractual appointment or they were casual labourer was not an issue before the Hon'ble Court/Tribunal and there is no specific findings in the orders relied upon by the 1st Party-Management as to the status of those workmen. Therefore, the contentions raised by the 1st Party-Management that the disputant workmen are purely contractual workers or contract labourer cannot be accepted on the basis of dismissal of cases preferred by the 2nd Party-Union in the Hon'ble C.A.T. and the Hon'ble High Court wherein an issue was raised

and prayer was made only for regularization of services of the disputant-workmen. Moreover, from the pleadings, evidence and contentions raised by the parties as discussed above more particularly, the correspondences between different offices of the 1st Party-Management, it can be safely held that the disputant workmen were engaged as casual/temporary labourer under different offices of the 1st Party-Management for a considerable period and most of them were working in the offices from the year 1995 to 2013 till their alleged disengagement.

8. Argument has been advanced on behalf of the Management that burden lies on the workmen to prove their employment for continuous period of 240 days in a year preceded to the alleged date of termination/retranchment and as the 2nd party-Union has failed to adduce any credible evidence except oral assertions of W.W.-1 and W.W.-2 to prove the continuous engagement of the workmen and there is no need of compliance of provisions of Section 25-F of the Act in the instant case. But, it cannot be over-looked that engagement of the disputant workmen for last fifteen to twenty years is not denied by the Management. No specific stand has been taken by the Management that the disputant workmen were not engaged continuously for 240 days in a year and that the appointment/engagement of those workmen was made intermittently. On the other hand it is the stand of the Management that engagement of the disputant workmen is purely contractual in nature. In the above back-drops initial proof of engagement for 240 days of continuous work in a calendar year is not required to be established by the 2nd party-Union in the instant case. As a settled principle the provisions of the Evidence Act in terms do not apply to a proceeding under the I.D. Act and initial burden of proof is on the claimant-workman to show that he had worked for 240 days in a given year before his alleged dismissal/termination. This burden is discharged only upon the workman stepping in the witness box and adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner, there may not be any letter of appointment or termination. There will also no receipt of proof of payment towards his daily wage. Hence, the daily wager may not be expected in possession of any documents towards his employment for a period of 240 days continuously. In such engagement the employer is expected to maintain muster roll, the wage register and other papers towards engagement and payment of wage to the workmen. The employer should have produced those documents to refute the allegations of the workmen and to establish its claim. But, the Management has not preferred to adduce either any oral or documentary evidence in the case in support of their pleadings and stand. Therefore, no adverse view can be drawn against the 2nd party-Union for its failure to file documents relating to appointment and nature of employment as well as period of their engagement. W.W.-1 and W.W.-2 have been subjected to cross examination by the Management and nothing substantial seems to have been elicited from their mouth to disbelieve their oral evidence that they and other disputant workmen were working as a casual and temporary worker in the offices of the Management continuously for 15 to 20 years. On the other hand if the stand of the Management that the disputant workmen were given contractual appointment is taken into consideration it can be safely said that evidence adduced on behalf of the workmen and pleading taken by the Management are sufficient to establish that the workmen were engaged as casual and temporary labourers continuously for more than 240 days in a calendar year preceding to their alleged refusal of employment. The initial burden having been discharged by the workmen about their nature and period of employment in the offices of the Management, the Management is required to establish their stand that the workmen were not given appointment as casual and temporary labourer and their employment was never continuous for a period of 240 days in a year. The Management is also required to prove that the engagement of the disputant workmen was intermittent and the workmen were contractual labourers or they were not under the direct employment of the Management. All the documents relating to engagement of the disputant workmen and expenditure incurred towards their employment being in possession of the Management, it was for the Management who produced documents to prove the nature of the engagement of the workmen. Having failed to lead any sort of evidence in support of their pleadings the Tribunal is duty bound to accept the pleadings and evidence of the 2nd party-Union and to hold that the disputant workmen were employed by the Management directly as casual/temporary labourers and they were in such casual or temporary services for the last fifteen to twenty years and their such engagement was continuous for a period of more than 240 days in each calendar year prior to their alleged disengagement/retranchment/termination on 13.4.2013.

9. The 1st Party-Management has also taken a stand that the disputant workmen were neither refused any engagement nor their services were retrrenched or terminated. It is its case that the workmen did not attend the offices and they sat on Dharana as a result of which tender was floated to carry out the works of sweeping, cleaning, dusting etc. through service provider/contractor. There is neither any pleading nor any evidence on behalf of the Management to show that the workmen were instructed either orally or in writing to report their duty before inviting tender for supply of contractual labourer. W.W.-1 and W.W.-2 unequivocally have stated in their testimony that the Management did not allow them to work and invited tender to carry out the works of cleaning, sweeping, dusting etc through service providers. Their such oral version has not been demolished. Had the Management interested to allow the disputant workmen to work as casual labourer in its establishments they could have been either approached orally or in writing to the workmen to join their duties. Had the workmen abandoned their services voluntarily they are not expected to raise a dispute for their disengagement and reinstatement. It cannot be over-sighed that pleading and argument has been advanced by the Management to the effect that due to change of policy and executive instruction the cleaning, sweeping, dusting and other works of the Management is given to service provider. Such stand also contradicts the pleadings of the Management about the voluntary abandonment of service by the disputant workmen. Further, when the Management has not led any evidence either orally or documentary it is not safe to believe that the workmen had left the

jobs on their own volition. Giving thorough consideration to the pleadings and evidence advanced by the parties and facts and circumstances as discussed above it shall be presumed that in the instant case inviting tender for engagement of contractual labourer through service provider/contractor without giving any notice either in shape of verbal or in writing to the workmen to join duty can be held refusal of employment and such refusal of employment amounts to retrenchment of services of the workmen as defined under section 2(o) of the I.D. Act. Admittedly no notice pay and compensation as required under section 25-F of the Act was paid to any of the workmen before their retrenchment. It further emerges from the pleadings, evidence and contentions of the parties that some contract labourers numbering 100 are presently engaged by the Management through service providers/labour contractor to carry out the works of sweeping, cleaning, dusting etc., in the offices of the Management located through-out the state. Sweeping, cleaning, supply of drinking water etc. and other works similar in nature are bare necessity in day to day administration of the Management-Office and Management is naturally expected to employ persons to do the above works manually. In the above back-drops if there was any retrenchment for any reason, the employer is required to comply the provisions of Section 25-H of the Act while giving appointment either contractually or as a daily wager. But the Management has failed to give preference to the disputant workmen before giving contractual appointment to the new entrants through service providers. Hence, it can also be said that there is an infringement of the provisions of the 25-H of the Act.

10. The Management has challenged the maintainability of the reference also on a contention that the disputant-workmen were contractual worker and there is no “employer and employee” relationship between them and the Management. It is apposite to observe that definition of workmen does not make out any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) of the Act from which it can be inferred that only a person employed on regular basis or temporarily can only raise a dispute. If the admission of the Management with regard to engagement of disputant workmen as contractual employment is taken into consideration, there exists the relationship of “employer and employee”. Besides as per the settled principle set out by the Hon’ble Apex Court in the case of Bangalore Water Supply and Sewerage Board – Versus- A Rajappa the Management can be counted to have been covered by the term “Industry” as defined under the Act. Hence, the argument advanced by the Management in regard to the maintainability of the reference has no force.

11. Argument has also been advanced on behalf of the Management that the dispute was raised by the Union in its original application bearing No. 278/2008 and the same having been dismissed on contest, the Union had preferred Writ Appeal in the Hon’ble Court which was also dismissed on contest. In that view of the matter as a settled principle of resjudicata the Tribunal is denuded from adjudicating the issue on appointment, dismissal and reinstatement of the workmen. At the cost of repetition it is profitable to state here that retrenchment/removal/disengagement was not an issue in the Hon’ble Court of CAT and High Court. Undisputedly public posts cannot be filled up in contravention of Recruitment Rules and constitutional scheme of employment. However, in view of the specific schedule of the reference made to this Tribunal for deciding if the action of the Management in terminating the services of 140 workmen without complying the provisions of the I.D. Act this Tribunal has the jurisdiction to adjudicate upon the dispute raised by the workmen. It is to be noted in the case of termination/retrenchment of casual employee what is required to be seen is whether a workman has completed 240 days in the preceding twelve months or not. If sufficient materials are shown that the workman has completed 240 days then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25-F. Having regard to the discussions made above it can be safely said that the alleged disengagement of the disputant workmen with effect from 11.4.2013 amounted to illegal retrenchment for non-compliance of the provisions enumerated in Section 25-F and 25-H of the Act and as such the said retrenchment is hereby declared illegal and unjustified.

12. The next question for consideration is what relief to which the disputant workmen are entitled to. In this regard the stand of the Management is that since the workmen are contractual, their reinstatement along with back wages are not automatic in view of the principles set out by the Hon’ble Apex Court in recent past. Argument has also been advanced by the Management that in view of the principles set out by the Hon’ble Apex Court in the case of Uma Devi –Versus Karnataka State Transport Corporation and the application and Writ Appeal preferred by the 2nd party-Union in the Hon’ble CAT and in the Hon’ble High Court having been dismissed, the disputant workmen, who are contractual and temporary worker, can neither be reinstated nor they can be given any compensation. As mentioned in supra the application before the Hon’ble CAT and the Writ Appeal before the Hon’ble High Court were preferred in different contexts i.e. for regularization of services of the disputant workmen. Close reading of the orders of the Hon’ble Courts do not suggest that any dispute in regard to illegal termination or retrenchment or refusal of employment after 11.4.2013 was an issue or subject matter of adjudication before those Hon’ble Courts. Similarly in the case of Uma Devi regularization of service of temporary workmen was the subject matter of consideration before the Hon’ble Apex Court. No settled principle seems to have been propounded in the case that industrial Tribunal/Court is denuded from giving award of compensation or reinstatement of a temporary worker or daily wager if service of such workman is taken away by unfair labour practice or by way of victimization or termination/retrenchment is caused without complying the provisions of Section 25-F of the Act. However, reinstatement of workmen along with back wages is not automatic in all cases of dismissal/retrenchment/termination in case of violation of Section 25-F of the Act. If the principles set out by the Hon’ble Apex Court in the cases between Jagbir Singh –Versus- Haryana State Agriculture Marketing Board, (2009) 15 SCC 327, U.P. State Brassware Corpn. Ltd., -Versus- Uday Narain Pandey, (2006), 1 SCC 479 and in other

catena of decisions are taken into consideration it can be safely said that an order of retrenchment passed in violation of Section 25-F although may be set aside, but an award of reinstatement should not, however, be automatically passed.

13. It is clear from the meticulous reading of the above citations as well as decisions of the Hon'ble Apex Court in the cases of Tapash Kumar Paul –versus- BSNL & Another (2014) 4 S.C.R. 875, Deepali Gundu Surwase –Versus- Kranti Junior Adhyapak Mahavidyalaya (D. Ed) and others 2013 (10) SCC 324:2013 (9) SCR 1, Senior Superintendent Telegraph, (Traffic), Bhopal –versus- Santosh Kumar Seal and Ors. 2010 (6) SCC 773, Hindustan Tin Works (P) Ltd., - Versus- Employees of M/s. Hindustan Tin Works Pvt. Ltd. And Ors 1979 (2) SCC 80 : 1979 (1) SCR 563, Surendra Kumar Verma & Ors –Versus- Central Government Industrial Tribunal-cum-Labour Court, New Delhi & Anr. 1980 (4) SCC 443 : 1981 (1) SCR 789 that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. Such relief may be a position where service of a regular/permanent workman is terminated illegally in malafide or by way of victimization and unfair labour practice etc. But, when it comes to the case of termination/retrenchment of a daily wager in violation of provisions of Section 25-F of the I.D. Act, reinstatement with back wage is not automatic and instead the workman should be given monetary compensation to meet the ends of justice. However, there may be cases in given situation reinstatement of a daily wager/temporary worker with back wages may be appropriate. The power given to the Industrial & Labour Courts under Section 30 is very wide and the affirmative action mentioned therein is inclusive and not exhaustive once termination/retrenchment is, declared illegal due to unfair labour practice or on the ground of victimization, the Industrial and Labour Courts are empowered to issue preventive as well as positive direction to an erring employer. One cannot over-look the observations made by the Hon'ble Apex Court in the case between Bharat Bank Ltd., -Versus- Employees of Bharat Bank Limited (1950) LLJ 921.948-49 SC in which it is stated in the following manner:-

“In settling the disputes between the employers and the workmen, the function of the tribunal is not confined to administration of justice in accordance with law. It can confer rights and privileges on either party which it considers reasonable and proper, though they may not be within the terms of any existing agreement. It has not merely to interpret or give effect to the contractual rights and obligations of the parties. It can create new rights and obligations between them which it considers essential for keeping industrial peace.”

At the same time, the aforesaid sweeping power conferred upon the Tribunal is not unbridled and is circumscribed by this Court in the case of New Maneckchowk Spinning & Weaving Co. Ltd., -versus- Textile Labour Association (1961) 1 LLJ 521.526 (SC) in the following words:-

“This however, does not mean that an industrial court can do anything and everything when dealing with an industrial dispute. This power is conditioned by the subject matter with which it is dealing and also by the existing industrial law and it would not be open to it while dealing with a particular matter before it to overlook the industrial law relating to the matter as laid down by the legislature or by this Court.”

14. Thus, the Industrial Tribunal and the Court is required to strike balance while adjudicating an industrial dispute relating to illegal retrenchment of a workman keeping in mind that industrial disputes are settled by industrial adjudication on principle of fair play and justice. Furthermore, the principles and observations set out by the Hon'ble Apex Court suggest that in no uncertain terms it can be held that in case of termination in violation of Section 25-F of the I.D. Act, relief of reinstatement may not be a natural consequence. It will depend upon the facts and circumstances of each case. It is not automatic in the facts of a given case, instead of reinstatement monetary compensation can be granted. In most of the cases as mentioned in supra the workmen having employed for a stint of small period and the industrial dispute having been adjudicated after a long lapse of period have been awarded compensation instead of their reinstatement. Furthermore, there may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of “last come first go” while retrenching such a worker/daily wager juniors to him were retained. There may be also a situation that persons junior to him may be regularized under some policy but the concerned workman is terminated. In such circumstances the terminated worker should not be denied reinstatement. Hence it cannot be said that in all cases of illegal termination/retrenchment of a daily wager the Tribunal is denuded from giving an award of reinstatement. In the case of Tapash Kumar Paul –Versus- BSNL & Another (2014) 4 S.C.R. 875 the Hon'ble Apex Court has held that there is no doubt that the Court may pass an order substituting an order of reinstatement by awarding compensation, but the same has to be based on justifiable grounds viz. (i) where the industry is closed; (ii) where the employees has superannuated or going to retire shortly and no period of service is left to his credit; (iii) where the workman has been rendered incapacitated to discharge the duties and cannot be reinstated and/or (iv) when he has lost confidence of the Management to discharge duties. What is sought to be emphasized is that there may be appropriate case on facts which may justify substituting the order of reinstatement by award of compensation, but that has to be supported by some legal and justifiable reasons indicating why the order of reinstatement should be allowed to be substituted by award of compensation.

15. In the case between Anop Sharma –versus- Executive Engineer, Public Health Division No. 1, Panipath, (Haryana) 2010 (3) SLR 663 the Division Bench of the Hon'ble Apex Court has set out that no workman employed in any Industry, who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in clauses (a) and (b) of Section 25-F of the Act as the provisions are

mandatory and such action of the employer is a nullity and the employee is entitled to continue in employment as if his service was not terminated.

16. Coming to the instant case it is seen that the disputant workmen do not fall into any of the categories as referred in the case of Tapash Kumar Paul – Versus – BSNL & Another which would justify compensation in lieu of reinstatement. On the other hand it cannot be over-looked that the workmen were denied employment only three years back i.e. on 13.4.2013 and most of them worked for more than 15 to 20 years by the time of their disengagement. All of them were engaged for doing sweeping, cleaning, dusting, and supply of drinking water works, which are necessary in day to day administration of the offices of the Management. Such works are now being done in the offices of the Management either through service providers or contract labourers as per the own pleadings of the Management. Hence, it can be safely inferred that the works carried out by the disputant workmen before their alleged disengagement are being done by the Management through labourers provided by the service providers and the Management is required to meet the expenditure for hiring the help of service providers. Therefore, it can be inferred that scope of temporary employment/engagement is still available in the Management office for reinstatement of to the disputant workmen. Such reinstatement of the disputant workmen may not be a financial burden to the Management. In course of argument it has been submitted that due to change of government policy and issue of executive instruction, the Management would find difficult to re-employ the disputant workmen directly in its various offices. Changing of policy matter or official instructions and guidelines cannot over-ride the provisions of the Industrial Disputes Act. A government agency is not expected to infringe the provisions of law in order to adopt a new policy, guidelines and executive instructions. Having worked for more than fifteen to twenty years most of the disputant workmen may not be in a position to find out a suitable employment elsewhere.

17. Taking the totality of the facts and circumstances of the case as recorded above the disengagement of the workmen can technically be held retrenchment as per Section 2(oo) of the I.D. Act and the said retrenchment being made without compliance of the Section 25-F of the Act is illegal and unjustified and the Management being found to have failed to comply the provisions of Section 25-H while giving engagement/employment to contract labourer through service provider I am of the view that the disputant-workmen are entitled to reinstatement in the posts on which they were engaged prior to their alleged removal on dated 10.4.2013. At the same time it should not be over-sighted that the disputant workmen did not give any service to the Management during the period of their disengagement and the Management took the assistance of Service Providers/Labour Contractor for doing the works carried out by the disputant workmen and incurred expenditure for taking such assistance of Service Providers. Therefore, it would not be appropriate to give compensation or back wages to the disputant workmen while awarding their reinstatement and such reinstatement should be carried out within one month. Hence, the Management is directed to reinstate the disputant-workmen along with continuity of service for future contingency, if any within one month from the date of publication of award in the official gazette.

18. Reference is answered accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 682.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सादरन कमांड स्टेशनरी डिपो पुणे एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, मुंबई के पंचाट (संदर्भ संख्या 14/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3.02.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 682.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case CR No. 14/2013) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the Southern Command Stationery Depot Pune and their workman, which was received by the Central Government on 03.02.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT MUMBAI****Present** : Justice S.P. Mehrotra, Presiding Officer

REFERENCE No. CGIT-14 OF 2013

Employers in relation to the management of
Southern Command Stationery Depot**AND**

Their workman

Appearances:-

For the first party/Management : Mr. H.D. Rathod, Advocate

For the second party/Union : Mr. M.B. Anchan, Advocate, holding brief for Mr. J. Sawant, Advocate

Mumbai, dated this the 04th day of October, 2016.**AWARD**

The present Reference has been made by the Central Government by its Order dated 07/3/2013 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Dispute Act, 1947. Terms of Reference as per the Schedule to the said Order are as under:

“Whether the action of the management of Southern Command Stationery Depot, Pune by not promoting Sh. R.T. Jawalkar even though he was willing to get the promotion is legal and justified? If not, to what relief the workman is entitled to?”

2. By the order dated 5/4/2013 passed by the Tribunal, notices were directed to be issued to the parties fixing 24/5/2013.
3. Accordingly, Notices were issued to the parties fixing 24/5/2013.
4. On 24/5/2013, as noted in the Order passed on the said date, Mr. J. Sawant, Advocate put in appearance on behalf of the second party/Union while Mr. H.D. Rathod, Advocate put in appearance on behalf of the first party/Management. Statement of Claim on behalf of the second party/Union was filed on the said date i.e. 24/5/2013, and case was adjourned to 9/7/2013 for filing Written Statement.
5. On 9/7/2013, as noted in the Order passed on the said date, Written Statement was filed on behalf of the first party/Management.
6. Since 8/10/2014, as will be evident from a perusal of the Order-Sheet, the case is being fixed for Framing of Issues.
7. The case was lastly put up on 16/9/2016.
8. On 16/9/2016, as noted in the Order passed on the said date, the case was adjourned to 4/10/2016 (i.e. today) on joint prayer made by the learned counsel for the parties.
9. Pursuant to the Order dated 16/9/2016, the case is put up today
10. Mr. M.B. Anchan holding brief for Mr. J. Sawant, learned counsel for the second party/Union is present.
11. Mr. H.D. Rathod, learned counsel for the first party/Management is also present.
12. Shri R.T. Jawalkar, the concerned Workman in the present Reference is personally present before the Tribunal, and he is identified by Mr. M.B. Anchan, holding brief for Mr. J. Sawant, learned counsel for the second party/Union.
13. An Application has been filed today on behalf of the second party/Union, inter-alia, praying for disposal of the reference proceedings as settled and withdrawn.
14. The said Application is signed by Mr. M.B. Anchan, holding brief for Mr. J. Sawant, learned counsel for the second party/Union.
15. The said Application also bears the signature of the aforesaid Mr. R.T. Jawalkar, the concerned Workman, and his signature is also identified by Mr. M.B. Anchan, holding brief for Mr. J. Sawant, learned counsel for the second party/Union.
16. The Application is also signed by Mr. H.D. Rathod, learned counsel for the first party/Management, who has also made his endorsement stating “No objection” on the said Application.

17. Relevant portion of the contents of the said Application are reproduced below:

"The Second Party workman states that the industrial dispute in respect of the promotion of the Second Party workman as covered in the Reference order dated 7/3/2013 has been resolved and settled. The First Party by its order dated 30th June, 2016 has granted promotion to the Second Party from the post of Fireman to LHF'A' w.e.f 01/07/2016. The Second Party, therefore, has no claim or grievance against the First Party. A copy of the order dated 30th June, 2016 is enclosed.

The Second Party, therefore, prays that this Hon'ble Tribunal may be pleased to dispose of the reference proceedings as settled and withdrawn."

The aforesaid R.T. Jawalkar, the concerned Workman, who is personally present before the Tribunal, states that he has got reliefs in respect of the grievances raised by him in the present Reference, and he does not want to pursue the present Reference any further, and he wants to withdraw the same. The aforesaid R.T. Jawalkar has further stated that the averments made in the aforesaid Application filed today are correct.

18. Mr. M.B. Anchan holding brief for Mr. J.Sawant, learned counsel for the second party/Union states that in view of the averments made in the aforesaid Application filed today and in view of the above statement made today by the aforesaid R.T. Jawalkar, the concerned Workman before the Tribunal, the dispute forming the subject-matter of the present Reference does not survive, and the Reference be decided accordingly.

19. Mr. H.D. Rathod, learned counsel for the first party/Management states that the first party/Management has no objection to the prayer made on behalf of the second party/Union being granted.

20. In view of the above, it is evident that the dispute forming the subject-matter of the Reference no longer survives.

20. Reference is, therefore, answered by stating that the dispute forming the subject-matter of the Reference no longer survives.

21. Award is passed accordingly.

JUSTICE S.P. MEHROTRA, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेक्रेटरी, दिल्ली डेवलपमेंट, नई दिल्ली एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 257/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/148/2015-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 6th March, 2017

S.O. 683.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case CR No. 257/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Secretary, Delhi Development Authority and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42011/148/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 257/2015

Smt. Saroj, W/o late Shri Muthu Swami, through
The General Secretary,
Municipal Employees' Union,
Agarwal Bhawan, GT Road,
Tiz Hasar, Delhi 110 054

...Workman

Versus

The Secretary,
Delhi Development Authority,
Vikas Sadan, B Block, 1st Floor, INA,
New Delhi 110 023

...Management

AWARD

Central Government, vide letter No.L-42011/148/2015-IR(DU) dated 03.12.2015, referred the following industrial dispute to this Tribunal for adjudication:

Whether the non-payment of pension to Smt. Saroj W/o deceased Muthu Swami by the management of DDA with effect from 1987 that is the time of this death on the ground that he was not a regular employee is just, fair and legal? If not, what relief the workman concerned is entitled to?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Ms.Saroj opted not to file her claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on her behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in her appearance nor has she led any evidence so as to prove her cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated : November 22, 2016

नई दिल्ली, 6 मार्च, 2017

का.आ. 684.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 124/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-41011/05/2009-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 684.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 124/2011) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Delhi as shown in the Annexure, in the industrial dispute between the management of Delhi Metro Rail Corporation and their workman, which was received by the Central Government on 6.3.2017.

[No. L-41011/05/2009-IR (B-1)]

B. S. BISHT, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 124/2011

The Secretary,
DMRC Employees Union
3, V.P. House, Rafi Marg,
New Delhi – 110 001

...Workman

Versus

The Managing Director,
DMRC, NBCC Place,
Bhism Pitamah Marg, Pragati Vihar,
New Delhi – 3

...Management

AWARD

A reference in this case was received in this case under sub-section (1) and sub-section 2A of Section 10 of Industrial Disputes Act, 1947 (in short the Act) for adjudication, vide letter No.L-41011/05/2009-IR(B-I) dated 07.03.2011 terms of which are as under:

“Whether the action of the management of Delhi Metro Rail Corporation in not giving the benefit of reservation of Ex-Servicemen to Shri Anil Kumar Joshi for his selection to the post of Station Collector, is legal and justified? To what relief the union/workman is entitled to?

2. Both the parties were put to notice and Shri Anil Kumar Joshi (hereinafter referred to as the claimant) filed statement of claim with the averments that he is a post graduate and Degree holder in Electronic and Telecommunications with 20 years of experience in Indian Air Force. The claimant joined Delhi Metro Rail Corporation (hereinafter referred to as the management) on 09.12.2012 as Electronic Mechanic and since then he has been performing his duties with full devotion and sincerity to the entire satisfaction of his superiors and colleagues. There has been no punishment to the discredit of the claimant nor any kind of complaint from any corner. Work and conduct of the claimant has been appreciated by all on account of dint of his labour and professionalism.

3. It is the case of the claimant that prior to joining the present assignment, he was serving in Indian Force in the field of electronics and on account of his professional experience, he was allocated Computerized automatic fare collection system by the management. Presently the claimant is posted at Automatic Fare Collection Project Wing in the management. Appointment of the claimant has been in the General category as at the time of joining, he has not availed benefit of reservation under ‘Ex-Servicemen’ quota, which is also clear from his admit card and offer of appointment dated 29.10.2002, which is Annexure A-1. Copy of statement of marks which the claimant obtained at the time of his interview is Annexure A-2.

4. It is, further, alleged that in June 2003, management invited application to fill various posts, including the post of Station Controller/Train Operator. Since the claimant was eligible for the said post, as such, he applied for the same and also appeared in the written test as well as interview. However, to his surprise, his name was not in the final selection list as is clear from the result statement Annexure A-3. Claimant sought to know the reasons for his non-selection and he was verbally told that he was not selected on the grounds that he has already availed benefit of ‘Ex-Servicemen’ quota at the time of his initial appointment, as such, there was no question of availing benefit of Ex-Servicemen quota for the second time. Case of the claimant has been espoused in the meeting of the Executive on 20.04.2008 by DMRC Employees Union, as is clear from minutes Annexure A-4. Thereafter representation dated 20.05.2008 was submitted to the management by the claimant though the union protesting for the refusing him appointment on the post of Station Controller/Train Operator and copy of the same is Annexure A-5. No reply was given by the management to the above representation, as such, the claimant raised a dispute before the Assistant Labour Commissioner, challenging inaction on the part of the management, copy of which is Annexure A-6. Management, before the ALC took the stand that the claimant has already availed benefit of Ex-Serviceman at the time of his initial appointment. Claimant had also filed rejoinder to the reply filed by the management. ALC, after conciliation of the matter, sent failure report, copy of which is Annexure A 9. Thereafter, matter was referred under Section 10 of the Act for adjudication with the above terms of reference. Finally, claimant has prayed that he be given benefit of reservation under Ex-Servicemen quote in the selection held in June 2003 for the post of Station Controller/Train Operator against his roll No.10018890.

5. Claim was contested by the management by filing written statement wherein preliminary objections inter alia of maintainability, non-espousal of the case through the union as well as the matter not being an industrial dispute as defined under Section 2(k) of the Act have been taken. On merits, factum of initial appointment of the claimant herein has not been denied. It has been specifically alleged that once an Ex-Serviceman has joined a Government job on civil side after availing benefits given to him as Ex-Servicemen for his re-employment, his status as Ex-Servicemen thereafter comes to an end and he cannot be permitted to seek further benefit in case a post falls vacant to which otherwise the claimant is eligible. Claimant was inducted as an Ex-Serviceman in the management in civil employment. Remaining averments regarding espousal and raising of demand etc. have already been denied by the management.

6. No rejoinder was filed on behalf of the claimant to the reply filed by the management.

7. It is clear from order dated 13.07.2011 passed by my learned predecessor that no specific issue was framed as he was of the view that no other issue except the one referred for adjudication arises for consideration. Accordingly, plea of the management regarding locus standi to file claim etc. and claimant not being a workman was rejected by the

Tribunal. It was also observed that the present dispute is an industrial dispute concerning service conditions of the claimant, hence no issue on preliminary objections was required to be framed.

8. Claimant, in support of his case, examined himself as WW1 and also tendered in evidence documents Ex.WW1/1 to Ex.WW1/14. Averments contained in the affidavit are on the same lines as those alleged in the statement of claim. Claimant also examined Shri Munna Lal, LDC from the Office of the Registrar Trade Unions as WW2, whose statement was recorded on oath. He also tendered in evidence documents Ex.WW2/1 to Ex.WW2/3.

9. Management, in order to rebut the case of the claimant, examined Shri Prem Pankaj Bhardwaj, as MW1, whose affidavit is Ex.MW1/A. He also tendered documents Ex.MW1/1 to Ex.MW1/7.

10 I have heard Shri K. Vishwanath Pankaj and Shri Malik, learned A/R for the claimant and the management respectively and thoroughly perused the records.

11. Main contention raised on behalf of the workmen is to the effect that the claimant has applied as general candidate and was never considered as a reserved candidate(Ex-Servicemen) even by the management. In this regard, attention of the Tribunal was invited to the advertisement Ex.WW1/M1 where there is no mention of reservation in the category of Ex-Servicemen and only concession and relaxation has been given to SC ST category. It was also urged that in case of Ex-Servicemen, regarding age concession, it is very specifically mentioned 'upper age limit will be length of service + 3 years, subject to maximum of 40 years. Learned A/R for the claimant also referred to the admit card and final result published by the management, which shows that the claimant was considered as general category candidate and not as reserved category. During the course of arguments, learned A/R for the claimant put reliance upon the case of Bharat Singh Vs. Union of India & Others (SWP 1652 of 2008 J&K HC) Jitender Kumar Singh Vs State of Uttar Pradesh (2010) 3 SCC 119), K Manjusree Vs State of Andhra Pradesh (2008) 3 SCC 512). I would be referring to the ratio of these authorities in the subsequent paras while drawing my conclusions.

12. Per contra, it was strenuously urged on behalf of the management that the claimant joined services of the management as Ex-Serviceman and it was his first civil employment after his discharge from Indian Air Force. He has availed benefit, in the contention of the management, of being Ex-Servicemen, as such, he cannot now again claim benefit for any subsequent employment from the management, though he can certainly be granted relaxation in age etc. under the rules. It was also urged that the claimant has admitted that he had applied for the job in Ex-Servicemen category as at the time of his joining, he was 36 years of age whereas age in the general category on the relevant date, the age was 18-22 years. Attention of the court was also invited to DOPT, GOI circular dated 20.04.1992 Ex.MW1/4 and Ex.MW1/5 as well as subsequent circulars which in the contention of the management clearly clarifies that a candidate who avails benefit after discharge from defence services in civil employment for the first time, he may not be given benefit of Ex-Servicemen in the subsequent employment except age relaxation etc.

11. After hearing learned authorized representatives for the respective parties as well as well as perusal of evidence, coupled with the case law cited by the respective parties in support of their respective pleadings, I am of the view that the sole question which requires determination in the present case is whether the claimant herein joined services of the management on 09.12.2012 in the capacity of Electronic Mechanic from general category or reserved category meant for Ex-Servicemen.

14. Before I proceed to consider the comparative merits of the submissions raised on behalf of either of the parties, it is necessary to refer to the facts germane to the controversy. Controversy in the present case in fact is purely legal in nature and oral evidence adduced by the parties is of much relevance. It is clear from office order dated 09.12.2002 Ex.MW1/1 that the claimant herein had applied for the post of Electronic Mechanic from open market for different posts and relevant extract of the office order is reproduced thus:

“As a result of direct recruitment from open market for different trades of Artisans/Maintainers and offer of appointment sent to the medically fit candidates. In continuation of this office OO No.O&M/R&T-18, 22, 26, 27, 30, 32, 34, 36, 37, 38, 39, 41, 45, 48 and 49 of 2002, the following candidate(s) who has/have reported for training in this office on the dates indicated against each is/are appointed and placed under orientation training. Orders of his/their posting on working posts will be issued separately only after completing by him/them his/their training successfully:

S. No.	Name & Father's Name (S/Shri)	Trainee's Trade	IDA Pay Scale and Basic Pay	Date of Birth	Cate-gory	Employee No.	Roll No. & Fit Memo No.	Reported on
1.	Anil Kumar Joshi, S/o Surjit Singh	Electronic Mechanic	3600-5500 3600	3-Nov-66	Gen.	5336	21030101 238050	09-Dec-02
2.	Narain Dass Khanna, S/o	Electronic	3600-5500	8-Aug-64	Gen.	5337	27031599	09-Dec-02

	Bhagwan Dass Khanna	Mechanic	3600				238119	
3.	Rakesh Kumar Sharma, S/o Jyoti Prasad Sharma	Electronic Mechanic	3600-5500 3600	28-Mar-64	Gen.	5338	23031066 238104	09-Dec-02
	Murali Dharan K, S/o R. Sethumadhavan	Diesel Mechanic	3600-5500 3600	20-Apr-64	Gen.	5339	31140429 238131	09-Dec-02

2. He/they should, however, note that final seniority to be assigned to him/them on completion of training would be based on his/their merit position in the Direct Rectt. Panel and his/their performance in the various exams during the period of Training.

3. Initially he/they will be on probation of a period of 2 years (including the period of training which may be extended or curtailed at the discretion of competent authority.

4. He/they should also note that without prejudice to the above, his/their services will stand terminated in case there is/are any adverse report against him/them from the police authorities on his character and antecedents, till then his/their appointment will be on provisional basis only.

5. He/they will be governed by the terms and conditions as stipulated in the above-referred offer of appointment.

15. After conclusion of the arguments, claimant has also filed OM dated 14.08.2014 issued by the Ministry of Pension, Public Grievances and Pension and Clause 3 of the said memorandum reads as under:

3. An Ex-Serviceman at the time of his release or discharge from the armed forces normally applies for more than one vacancy, but in case he/she joins any civil employment due to early declaration of results/selection, he/she is not entitled for the benefit of reservation for Ex-Servicemen for subsequent employment. It has been brought to the notice of this Department that the aforesaid instructions are affecting the chances of Ex-Servicemen in the case of direct recruitment for subsequent suitable employment.

16. Chapter 15 of the DMRC rules also contains guidelines to be followed at the time of direct recruitment. Clause IX deals with the method of recruitment from external sources. During the course of arguments, it was not disputed on behalf of either of the parties that direct recruitment in the case of Ex-Serviceman is to be done in accordance with Office memorandum dated 14.08.2014 and other notification and clarification issued by the Union Government from time to time.

17. It is further clear from the statement of Shri Prem Pankaj Bhardwaj MW1 that a total of 31 employees were recruited for the post of Electronic Mechanics in the year 2002 and reservation quota for Ex-Serviceman was 14.5%. He has further made a vital admission that out of 31 such employees, 4 employees would be Ex-Servicemen. He has admitted that the claimant herein obtained 50 marks in the written test and 9 marks in the interview and his total marks were 59. Further, in the year 2002, 10 Ex-Servicemen were recruited. He has also admitted that no fee concession was given to the claimant. He has further admitted that OM No.36034 dated 10.10.1994 issued by the Ministry of Personnel, Public Grievances and Pension is applicable to the management. He has also made reference to the roster at serial No. 26, wherein reservation was given to the claimant in the category of Ex-Servicemen. During the course of arguments, this court wanted to know from the A/R for the management as to how name of the claimant is shown against post of Ex-Servicemen in the so-called roster prepared by the management when his initial appointment as per MW1/1, name of the claimant appears at serial No.1 and the said result pertains to the selection in respect of open market, i.e. general category. However, no satisfactory reply was given, even by senior official of the management present in court.

18. It is clear from matrix of the case that claimant herein joined the management on 09.12.2002 as Electronic Mechanic and it is also not disputed that 31 posts was advertised by the management for direct recruitment from open market for different trades and the claimant herein has applied and appeared in the test for the post of Electronic Mechanic. During the course of arguments, claimant has invited attention of the court to the application, and it was not disputed by either parties that he applied on the format, code No.3 and name of trade as Electronic Mechanic. There is mention of category code in the said format which shows that the claimant has marked his category as general. Below that there is mention of Ex-Servicemen, which the claimant has tick marked 'yes'. He has also mentioned his qualification in the application form as ITI - Electronics & Telecommunication (Radar Fitter). During the course of arguments, it was also not disputed that that above post is Group 'C' category under the Central Government.

19. It is, further, clear from perusal of office Order dated 09.09.2002 Ex.MW1/3 that the claimant has qualified the above test for the post of Electronic Mechanic and he was asked to report for training in the office of the management. There is also Annexure A attached with this list, which clearly shows that the claimant has obtained 50 marks in the written test and 9 marks in the interview and his total marks are 59 and in the column 'category' it is mentioned Ex-

Servicemen., which clearly shows that the claimant is an Ex-Serviceman under un-reserved category. Shri Rajbir Kapasia, the person who topped the written examination has obtained 71.75 marks. Names of candidates who have qualified the test and were called for interview were given in the order of merit. There is considerable contention in submission of the claimant that he has applied as open category/general category candidate and that is why his name is shown in the list of merit as Ex-Servicemen UR).

20. Another document, Ex.MW1/2 which is in fact list of candidates called for medical test, name of the claimant finds mention at serial No.7 and his category is shown to be 'General' being Ex-Serviceman, mention of roll number as well as date of birth and his age at the time of the test is 35+. This list also clearly shows that name of the candidates in the above list are shown in order of merit. Further, candidates mentioned at serial No.1 to 6 in Ex.MW1/2 are in the age group of 35 to 38, except at serial No. 2, whose age is 24 years. Perusal of above list also shows that candidates at serial No.1, 3, 4, 5 and 6 are show as 'General' category Ex-Servicemen. There were admittedly only 31 posts as is clear from advertisement and reservation in respect of Ex-Servicemen, as was submitted by the management also, for the said post was 14%. This further shows that out of 31 posts, 4 posts have been allotted to the category of Ex-Servicemen. If it were so, then also name of the claimant cannot be said to be in the category of Ex-Servicemen as candidates at serial no.1, 3, 5 and 6, i.e. Rajbir Kapasia, Goga Ram Kanojia, and Bramjit Singh belong to general category of Ex-Servicemen, who have also scored more marks than the claimant herein. In fact, number of Ex-Servicemen selected in the above list Ex.MW1/2 comes to 10 and by no stretch of reasoning, there can be reservation for 10 posts out of total 31 posts in the category of Electronic Mechanics. Contention of the management is to the effect that the claimant has joined as an Ex-Servicemen, being his first Government employment, he has already availed benefit of him being an Ex-Serviceman, as such he cannot claim benefit for the post of Station Controller/Train Operator. Claimant, in the present case, admittedly appeared as an Ex-Servicemen for the post of Station Controller/Train Operator. He has also undergone interview and psycho test but in the final selection list, claimant was declared unsuccessful. During the course of arguments, it was not disputed that management is a public sector undertaking, is also following Central Service Rules, where office order/rules of the management are silent.

21. There is also no merit in the contention of the management that while appearing as WW1, the claimant has admitted that he has applied against the post of Ex-Servicemen. His statement, including his cross examination is crystal clear that his age at the time of the test was 36 years as his date of birth is 03.11.1966. He has admitted the advertisement issued by the management vide Ex.WW1/M1 and has appointment letter Ex.WW1/4. Admit Card of the claimant also shows that he was not appearing in the above examination as reserved/Ex-Servicemen candidate as there is no mention of this fact in the admit card nor there is any mention of this fact in the order of appointment attached with letter dated 28.10.2002. It is necessary to produce the offer of appointment so as to appreciate controversy in proper perspective:

Subject	Offer of appointment against direct recruitment from open market for the post of IDA Pay Scale – Rs.3600-100-5500
Ref	(i) Advt. published in 'The Employment News' in June 2002 and (ii) Written test held on 25.08.2002 and interview between 25.09.2002 and 28.09.2002

I am directed to state that you have been selected for appointment to the above mentioned post and pay scale. Your basis pay will be initially fixed at the minimum of the above pay scale with usual allowances as admissible under the rules as per the following terms and conditions:

1. Your appointment is on temporary basis but may be made permanent later.
2. Your appointment and continuance in the service shall be subject to your character and antecedent being found satisfactory.
3. Your appointment will be subject to production of the following documents, in original
4. You will be on probation for a period of two years,(including training) from the date

.....

22. No doubt, in the seniority list prepared by the management, the claimant is shown to be belonging to category of Ex-Servicemen in the so called roster prepared by the management after declaration of results and joining of the various candidates on the respective posts. The above roster is not at all in consonance with the documents. It does not appear to be in accordance with law as there is no mention whether any tentative seniority list of candidates was circulated before finalizing the list of seniority, which is required under the law so that if any candidate or Government servant raised any grievance against the preparation/his placement in the list, as the same could be specifically raised by such aggrieved candidate/Government servant. Learned A/R for the management could not satisfy this Tribunal as to how the claimant could be shown to be belonging to Ex-Servicemen category when he has not availed benefit of the same in his first civil employment. There is hardly any dispute with the proposition of law that when an Ex-Serviceman has once availed benefit of being an Ex-Serviceman, that would not entitle such a person for further benefit of reservation in subsequent employment. This fact is amply clear from perusal of E.MW1/4 and Ex.MW1/5.

23. The basic question is whether the claimant herein has really applied as an Ex-Serviceman candidate when he has obtained his first civil employment when he applied for the post of Electronic Mechanic with the management vide Ex.MW1/3. As discussed, mere relaxation of age to Ex-Servicemen would not mean that such candidate has applied under Ex-Servicemen category. In this regard, reliance can be placed upon the case of Jitender Singh case (supra). It was a case where direct competitive examination for filling post of Sub Inspector was conducted by UP Public Service Commission and appellant in the said case had availed benefit of relaxation of upper age limit, being belonging to reserved category. It was strongly urged on behalf of the management that such a candidate is to be adjusted against reserved vacancy even if marks secured by such candidates was more than the marks secured by the general category candidate in open competition. This contention did not find favour with the High Court as well as Hon'ble Supreme Court and it was held as under:

“reserved category candidates have not been given any advantage in the selection process. All the candidates had to appear in the same written test and face the same interview. It is therefore quite apparent that the concession in fee and age relaxation only enabled certain candidates belonging to the reserved category to fall within the zone of consideration. The concession in age did not in any manner tilt the balance in favour of the reserved category candidates, in the preparation of final merit/select list.”

“Concessions falling within [Section 8](#) of the Act of 1994 cannot be said to be relaxations in the standard prescribed for qualifying in the written examination. Relaxation in age limit is merely to enable the reserved category candidate to compete with the general category candidate, all other things being equal. The State has not treated the relaxation in age and fee as relaxation in the standard for selection, based on the merit of the candidate in the selection test i.e. Main Written Test followed by Interview. Therefore, such relaxations cannot deprive a reserved category candidate of the right to be considered as a general category candidate on the basis of merit in the competitive examination.

Relaxation in age does not in any manner upset the “level playing field”. The concessions are provisions pertaining to the eligibility of a candidate to appear in the competitive examination. At the time when the concessions are availed, the open competition has not commenced. It commences when all the candidates who fulfill the eligibility conditions, namely, qualifications, age, preliminary written test and physical test are permitted to sit in the main written examination. With age relaxation and the fee concession, the reserved candidates are merely brought within the zone of consideration, so that they can participate in the open competition on merit. Once the candidate participates in the written examination, it is immaterial as to which category, the candidate belongs. All the candidates to be declared eligible had participated in the Preliminary Test as also in the Physical Test. It is only thereafter that successful candidates have been permitted to participate in the open competition.”

24. In K Manjusree case (supra), Hon'ble Apex Court considered the question whether selection criteria which has already been prescribed in advance can be changed afterwards and this contention did not find favour of the Hon'ble Apex Court. It was held that original criteria in which examination was conducted wherein minimum qualifying marks were prescribed, both for the test as well as interview, should not have been changed as it amounts to change of rules of the game midway. In the case in hand also, when the claimant has appeared as an open market candidate as is clear from the application form as well as Admit Card, including declaration of results wherein he has been shown to be general category candidate, status of such a candidate cannot be later on converted to reserved category belonging to Ex-Servicemen, when he has obtained higher marks in the open competition and he was placed at serial No.7 in the order of merit. Neither in the offer of appointment nor in any other subsequent letter, there is mention by the management to the effect that the claimant herein has been selected as candidate against reserved category of Ex-Servicemen.

25. Statement of Shri Prem Pankaj Bhardwaj MW1 is not of much value so as to explain the norms followed in preparation of roster by the management. He has admitted that reserved quota for Ex-Servicemen is 14.5% and there were 31 candidates in the category to which the claimant belongs if 4 posts would be for Ex-Servicemen. He, further, admitted that marks obtained by the claimant was 50 in the written test and 9 in the interview and his total marks aggregated to 59. Further, he admitted that there were as many as 10 Ex-Servicemen recruited in the said test. Though he denied the suggestion that all the 10 have come in the open quota on the basis of their respective performance being meritorious candidates. As discussed above, but it is clear from declaration of result that merit list was prepared on the basis of marks obtained by the respective candidates in the test and in the said declaration of the result, claimant herein has been shown belonging to general category. He has further made a vital admission that no fee concession was given to the claimant, which is again suggestive of the fact that the claimant had applied for the post under General category of Ex-Servicemen. He has also admitted that Office Memorandum dated 10.10.1994 is applicable to the management. He further deposed under the SC/ST roster at serial No. 26, reservation was given to the claimant under the category of Ex-Servicemen. To my mind, merely showing the claimant as Ex-Serviceman in the roster register would not confer him status of having availed status of Ex-Servicemen when he has applied for the post from open market as a direct recruit and even in the declaration of result, management has shown him to be belonging to open category/General

category. The roster system filed by the Local Commissioner does not appear to be at all in consonance with the judgements rendered by the Hon'ble Supreme Court in Sabharwal case and all subsequent pronouncements, wherein Sabharwal has been followed consistently by the various Courts. In view of this, there is nothing on record to show that any tentative seniority list was ever prepared and circulated amongst the employees so as to invite their objections/grievances for making the same final. Hence, it is held that it is held that the seniority list prepared is not at all in accordance with law and the same cannot be used so as to use so as to decide the question whether selection of the claimant was made against reserved General category/open market post.

26. As a sequel to my detailed discussion made hereinabove, it is held that appointment of Shri Anil Kumar Joshi, claimant herein to the post of Electronic was against the open/general post. He has not availed benefit of reservation at the time of his first appointment with the management. Resultantly, it is held that the action of the management in not giving benefit of reservation to the claimant herein against the post reserved for Ex-Servicemen for his selection to the post of Station Collector is neither legal nor justified. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated : January 6, 2017

नई दिल्ली, 6 मार्च, 2017

का.आ. 685.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बड़ौदा राजस्थान ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 7/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-12011/99/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 685.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Baroda Rajasthan Gramin Bank and their workmen, which was received by the Central Government on 06.03.2017.

[No. L-12011/99/2014-IR (B-1)]

B.S. BISHT, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 7/2015

Reference No.L-12011/99/2014-IR(B-I) dated: 2.1.2015

The General Secretary
United Fourm of B.R.K.G.B Unions,
B-124, Sethi Colony, Jaipur.

V/s

The President
Baroda Rajasthan Gramin Bank
Head Office, City Plaza,
Vaishali Nagar, Ajmer.

AWARD

30.12.2015

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“D; k ; wkbVSM Qkje vkQ ch-vkj-dsth-ch- ; fu;ul }kjk izdku cMksh jktLFkku xkeh.k cfd] vtej dks i fkr ekx i = fnukd 10-01-2014 ,oa 30-09-2013 ea l s vugYud ^v^ ea mYysf[kr ekx U; k; kspr ,oa fof/k l Eer gS ; fn gk] rks cMksh jktLFkku xkeh.k cfd ds dekjfh fdI jkgr ,oa dc l s i kus ds vf/kdkjh gS

2. Pursuant to the receipt of the reference order, registered notices were sent to both the parties as per the order of the tribunal dated 15.1.2015 fixing 23.6.2015 for filing statement of claim by applicant. On 23.6.2015 applicant was served but statement of claim was not filed. Learned representative for opposite party Sh. Surender Singh, Advocate came in appearance & filed authority on behalf of opposite party on 23.6.2015. 7.9.2015 was next date fixed by tribunal on its own motion for filing statement of claim by applicant adjourning the case on 23.6.2015. On 23.6.2015 neither applicant or anyone on his behalf came in appearance nor statement of claim was filed. Learned representative for opposite party was present. In interest of justice case was again adjourned by tribunal on its own motion providing opportunity to file statement of claim on 23.11.2015. Order was also passed directing the applicant to file Annexure-A to the reference containing demands of the applicant.

3. On 23.11.2015 when case was taken up for hearing none appeared from both the side. Statement of claim was also not filed from the side of applicant. Looking into the fact that applicant is not taking interest in filing statement of claim & does not appear to be interested in further proceeding of the case, file was reserved for passing award without statement of claim.

4. It is pertinent to note that reference dated 2.1.2015 was sent by Ministry to applicant with direction to file statement of claim within 15 days from the date of receipt of reference. Applicant has neither filed statement of claim on the direction of Ministry nor on notice & knowledge of the proceeding pending before the tribunal. It appears that applicant is not interested & willing in submitting the claim for adjudication. In the circumstances & in the absence of material evidence brought on record, tribunal is unable to record the finding on the issues referred to it on merit. Accordingly, “No Claim Award” is passed in this matter. The reference under adjudication is answered accordingly.

5. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईसीआईसीआई बैंक लि., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 87/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/93/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 686.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 87/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of ICICI Bank Ltd. and their workmen, which was received by the Central Government on 06.03.2017.

[No. L-12012/93/2015-IR (B-1)]

B.S. BISHT, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 87/2015

Reference No.L-12012/93/2015-IR(B-I) dated: 7.9.2015

Shri Kishangopal Meena
S/o Chaganlal Meena
Gram Saklai, Post Kanvada,
Tehsil Dunia Jila Tonk,
Jaipur.

V/s

1. Dy. General Manager
Bombay Intelligence Security (India) Ltd.
201 Senestar, Central Sapine,
Vidhadhar Nagar, Jaipur.
2. Security Officer
ICICI Bank Ltd.
Sardar Patel Marg, Near BJP Office
C-Scheme, Jaipur.

AWARD

30.6.2016

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 and 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या प्रबंधन आई.सी.आई.सी.आई. बैंक लि., जयपुर के सिक्योरिटी ठेकेदार मै. बॉम्बे इंटेलीजेंस सिक्योरिटी (इंडिया) लि., जयपुर का कर्मकार श्री किशनगोपाल मीणा, सिक्योरिटी गार्ड को मौखिक आदेश दिनांक 01.01.2015 के द्वारा नौकरी से निकाला जाना न्यायोचित एवं न्यायसंगत है? यदि नहीं तो कर्मकार किस अनुतोष को पाने का अधिकारी है?”

2. Pursuant to the receipt of the reference order, registered notices were issued to the parties fixing 1.3.2016 for filing statement of claim. On 1.3.2016 applicant was absent. For Bombay Intelligence Security (India Ltd.), Jaipur, Administrative Officer was present & authority for the Company was filed by him. None appeared for I.C.I.C.I. Bank Ltd. Order was passed to re-issue the notices against applicant & bank fixing 11.4.2016 for filing statement of claim.

3. On 11.4.2016 Presiding Officer was on leave. Applicant was present. None appeared for I.C.I.C.I. Bank. Representative of opposite party No. 2, Bombay Intelligence Security (India Ltd.), Jaipur, was present. 15.6.2016 was next date fixed for filing statement of claim. On 15.6.2016 presiding officer was on leave. Applicant was absent. Sh. Rajvir Singh Yadav, Administrative Officer, was present for Bombay Intelligence Security (India Ltd.), Jaipur. None appeared for I.C.I.C.I. Bank. Documents were filed by Sh. Rajvir Singh Yadav which were taken on record. 28.6.2016 was next date fixed for filing statement of claim & further proceeding.

4. On 28.6.2016 applicant was absent. DJM & Sh. Rajvir Singh, Administrative Officer were present for Bombay Intelligence Security (India Ltd.), Jaipur. None appeared for I.C.I.C.I. Bank Ltd. Service was held sufficient against I.C.I.C.I. Bank Ltd. Sh. Rajvir Singh, Administrative Officer alleged that applicant is not to contest the case because all the dues against the applicant have been cleared. Looking into the next date 30.6.2016 fixed for Lok-Adalat, Sh. Rajvir Singh, alleged that this case may be fixed for disposal in Lok-Adalat & he will ensure the presence of applicant in Lok-Adalat on 30.6.2016. Accordingly, after perusal of file & earlier documents submitted by security agency about clearance of dues of the applicant case was fixed for disposal in Lok-Adalat on 30.6.2016.

5. On 30.6.2016 Sh. Rajvir Singh Yadav, Administrative Officer for Bombay Intelligence Security (India Ltd.), Jaipur appeared & submitted application for disposal of case. None appeared for & on behalf of I.C.I.C.I. Bank Ltd. & applicant. Heard the applicant Sh. R Sh. Rajvir Singh Yadav, Administrative Officer on his application to decide the case in Lok-Adalat. It has been alleged in his application dated 30.6.2016 that the security agency has cleared the demands made by applicant & dues of the applicant against the security agency & applicant has no complaint against the company now. He has further alleged that he contacted the applicant who assured his appearance on 30.6.2016 in Lok-Adalat but he has not turned up in spite of assurance. It has been further alleged that applicant does not want to contest the case & the case may be closed. From perusal of file it is evident that on 15.6.2016 Sh. Rajvir Singh Yadav Administrative Officer has filed following six documents as mentioned below :-

(I). Information to the tribunal by security agency indicating that five employees namely Lala Ram Meena, Moti Lal Meena, Kishan Gopal Meena, Nawal Kishor & Maya Ram Meena have resigned from the service of the company & relieved on 31.12.2015 & they have been paid their dues in full & final settlement & nothing is due against the company. It has been further alleged that applicants are no more employee of the company hence case may be closed. Kishan gopal Meena is the applicant in the present case.

(II). This is an application by applicant Kishan gopal Meena dated 31.12.2015 addressed to Regional Labour Commissioner (Central), Jaipur requesting that complaint dated 2.3.2015 made by applicant against the company may be dismissed. It has been alleged that company has cleared the dues of the applicant & applicant now has no complaint against the company. He had made a complaint dated 2.3.2015 before the RLC(C), Jaipur & applicant is withdrawing his complaint & he will not make any complaint in future against the company before any court or Labour Court.

(III). This document is Photocopy of Adhar Card of the applicant to support the genuiness of the application of the applicant.

(IV). This is an application of resignation addressed to the security company wherein it has been alleged that due to domestic problems applicant does not want to serve the company anymore & he has no complaint against the company. He is withdrawing his complaint which he had made earlier hence, it is requested that his full & final payment may be made.

(V). Receipt of full & final due from company signed by applicant on revenue stamp in presence of two witnesses.

(VI). Cheque of corporation Bank relating to money received as full & final satisfaction.

6. After perusal of above documents it appears that applicant is not interested in pursuing the case further hence, instead of passing "No Claim Award" case was disposed in the Lok-Adalat with order as mentioned below :-

30.06.2016 पत्रावली आज लोक अदालत में प्रस्तुत हुई। पुकार पर विपक्ष की तरफ से बम्बे इन्टेलिजेन्स सिक्यूरिटी (इण्डिया) लिमिटेड के लिए श्री राजवीर सिंह यादव, प्रशासनिक अधिकारी उपस्थित है। शेष पक्षकार अनुपस्थित है।

आज विपक्षी बम्बे इन्टेलिजेन्स सिक्यूरिटी (इण्डिया) लिमिटेड की तरफ से आवेदन प्रस्तुत हुई कि मुकद्मे के प्रार्थी मुकद्मा नहीं लड़ना चाहते हैं इसलिए मुकद्मे को बन्द कर दिया जाय क्योंकि याचिकाकर्ता द्वारा किये गये माँग और उनका बकाया हिसाब कर दिया गया है। याची को कम्पनी से कोई शिकायत नहीं है तथा यह मुकद्मा नहीं लड़ना चाहते हैं। यह भी कहा है कि याची से सम्पर्क कर प्रार्थी ने न्यायालय में सुलह हेतु उपस्थित होने के लिए कहा लेकिन "हाँ" कहने के बाद भी वे न्यायालय में उपस्थित नहीं हुए।

मैंने पत्रावली का अवलोकन किया। पत्रावली पर विपक्ष ने उभय पक्ष द्वारा विवाद समाप्त होने की लिखित घोषणा तथा क्षेत्रीय श्रम आयुक्त (केन्द्रीय) जयपुर को प्रार्थी द्वारा प्रस्तुत विवाद को निरस्त करने की आवेदन प्रस्तुत की है जो दिनांकित 31.12.2015 है। उक्त स्थिति से यह जाहिर है कि प्रार्थी को मुकद्मा आगे चलाने में रुचि नहीं है, अतः आगे की कार्यवाही बन्द की जाती है तथा पत्रावली एवार्ड हेतु आरक्षित की जाती है।

7. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 687.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 107/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-41012/40/2009-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 687.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 107/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen, which was received by the Central Government on 06.03.2017.

[No. L-41012/40/2009-IR (B-1)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR

Industrial Dispute No. 107 of 2010

Between :

Smt. Manju Devi,
D/o Sri Ramesh Chandra,
House No. 83/129 Chhoti Juhi,
Kanpur.

AND

The Principal,
Electric Training Centre,
North Central Railway,
Fazalganj, Kanpur.

AWARD

1. Central Government, Mol, New Delhi vide notification No. L-41012/40/2009-IR (B-1) dated 18.11.2010, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Principal, Electric Training Centre, Fazalganj North Central Railway Kanpur ad DRM North Central Railway Allahabad in terminating the services of Smt. Manju w/o Sh. Ramesh Chandra w.e.f. 6.6.2000 is justified? If not, what relief the concerned applicant is entitled?
3. The case of the applicant is that she was appointed at the post of washer lady on 11.09.90 under the opposite party. It is also alleged that in the Electric Training School Electric Driver resides and the bed sheets, cartons etc. were used to be washed by washer men which were in all 5 in numbers. The wages were paid separately to the workers by the management after obtaining the signatures. It is further alleged by the applicant that her services were removed by the without following the provisions of Industrial Disputes Act, 1947, but the applicant has not mentioned the date from which she was removed from the service of the management in as-much-as she was neither given any notice, or notice pay or retrenchment compensation thereby the removal of the workman is against the rules of provisions of Industrial disputes Act, hence it is prayed by the worker that she be reinstated in the service of the management with full pay allowances, back wage and with continuity of service.
4. On the contrary the opposite party has filed its reply denying the claim of the applicant stating therein that they have never given appointment to the applicant against any regular and permanent post, she was never given wages as is given to the regular and permanent employee of the management, she had never performed the work of permanent and regular nature, she had never been removed or terminated from the services of the management therefore, the provisions of Industrial Dispute Act are not applicable in the case of the applicant and thus she is not entitled for any relief as claimed by the applicant.
5. The applicant has filed certain documents in the form of photocopy which was rejected by the court by order dated 28.05.15 as not pressed.
6. It is pertinent to mention here that neither party has adduced any evidence in the case in support of their respective claim; therefore, it will be presumed that it is a case of no evidence.
7. Having concluded that the present case is a case of the nature in which neither of the parties have adduced their evidence nor have argued their case, therefore, the tribunal having no option left but to decide the reference against the applicant for want of evidence and proof.
8. Accordingly it is held that the applicant in the present case is not entitled for any relief for want of evidence and proof.
9. Accordingly reference s answered against the applicant holding that the applicant is not entitled for any relief pursuant to the present reference order.
10. Reference is answered accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 688.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 79/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-12011/24/2009-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/2009) of the Central Government Industrial Tribunal-cum-

Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workman, which was received by the Central Government on 06.03.2017.

[No. L-12011/24/2009-IR (B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/79/2009

General Secretary,
Pratharit Karmachari Kalyan Manch,
F-1, Tripti Vihar, Opp Engg.College,
Sanwer Road, Ujjain

...Workman/Union

Versus

Branch Manager,
State Bank of Indore,
Kampel, Distt. Indore

... Management

AWARD

Passed on this 5th day of January, 2017

1. As per letter dated 24-9-09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12011/24/2009-IR(B-I). The dispute under reference relates to:

“Whether the demand of the applicant Shri Hukum Chand Parmar is justified to claim for the payment of difference of wages as per Bipartite settlement? If so, what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Statement of claim is submitted by General Secretary of Daily Wage Employees Union. Case of Ist party is that workman Raj Kumar Parosia was engaged as peon in 2nd party Bank from 14-12-93. He was working 8 hours every day. He completed 240 days continuous service. He was initially paid wages Rs.20 per day. Rates were increased to Rs.25, 30, 35, 40, lastly Rs. 3500 pm. When workman had claimed bonus and regularization in service, payment of revised pay scale, his services were terminated without notice in violation of Section 25-F of ID Act. Workman raised separate dispute challenging termination of his service. That he was working from 14-12-93 to March 98. He was not paid wages as per 6th to 9th bipartite settlement. The details of the pay scales under the settlement are given in para 4 of the statement of claim. Ist party workman claimed that he is eligible for receiving scale wages. Management did not pay him wages as per bipartite settlement. He claimed difference of wages as per 6th to 9th bipartite settlement. That violation of settlement is punishable under Section 29 of ID Act, it also amounts to unfair labour practice. On such ground, workman prays for difference of wages as per 6th to 8th bipartite settlement.

3. 2nd party filed written statement opposing claim of workman. 2nd party submits that State Bank of Indore is merged in State Bank of India vide notification dated 20-7-2010. BranchManager has no power to appoint peon, messenger, security guard. Such appointments can be made on regular basis as per rules and regulations of the Bank. Ist party workman was not appointed as peon. He was not working 8 hours in a day. Claim of workman is false and imaginary. That as per practice prevailing in the Bank for work of cleaning, sweeping, labours were engaged on contractual basis as regular peon were not doing such work. Ist party workman was engaged on contractual rate. He was engaged on casual basis working one hour before opening and one hour after closing of the Bank. Workman was not engaged as permanent peon or part time peon. Work of regular peon was not taken from him. He is entitled to scale wages. Dispute is raised by General Secretary of Employees Welfare Organisation is not competent to raise the dispute. Claim of workman for difference of wages deserves to be rejected.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of the applicant Shri Hukum Chand Parmar is justified to claim for the payment of difference of wages as per Bipartite settlement?	In Negative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to demand of difference of wages as per pay scale under bipartite settlement. Management has opposed claim of workman filing Written Statement. Though filed affidavit of his evidence on 8-0-14, representative Shri Nagwanshi submitted not to give evidence. Workman could not be cross examined. His evidence cannot be considered.

6. Ist party has produced certified copies of affidavit of evidence of Kiran Kumar in R/199/98 between workman Hukumchand and State Bank of Indore. The witness of management in his cross examination said that he had not taken information from Branch Managers. Work of cleaning, sweeping was done morning evening in the branch except Sunday and Wednesday. The area of the branch is around 250 sq.ft. muster roll of workman was not maintained. Workman was working 3 days in a week. He was paid Rs.20 per day. Certified copy of affidavit of evidence of Shri Sunil in R/199/98 is produced. Said witness in his cross says that appointment letter was not given to workman. He claims ignorance what procedure was filed before engagement of workman. Payment was made to workman under voucher. Workman was not paid bonus for the year 1993 to 1998. Certified copy of affidavit of management's witness Shri Yogesh Gandhi in R/199/98 is produced. Witness of management admitted settlement Exhibit W-4 in said reference. Witness claimed ignorance whether bonus was paid to workman from 1993 to 99. In his further cross, he admitted document Exhibit W-2,3 regarding payment of bonus. Certified copy of affidavit of workman in other reference is filed.

7. Management's witness filed affidavit of his evidence supporting whole contentions in Written statement filed by management. In his cross, management's witness says he was not posted in branch during 1993 to 1999. He was unable to tell area of the branch. He was unable to tell sanction post of sub staff. He was unable to tell rate of daily wages during 1993 to 99.

8. Workman has not produced any documents. In Bipartite settlement, prescribed rates of wages payable to daily wage employees. therefore claim of workman for difference of wages as per scale wages under bipartite 6th to 8th settlement is not established. For reasons discussed above, I record my finding in point No.1 in Negative.

9. In the result, award is passed as under:-

- (1) The demand of the applicant Shri Hukum Chand Parmar is justified to claim for the payment of difference of wages as per Bipartite settlement is not legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 689.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर, के पंचाट (संदर्भ संख्या 7/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-12011/62/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, which was received by the Central Government on 06.03.2017.

[No. L-12011/62/2011-IR (B-1)]

B.S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/7/2012

General Secretary,
Dainik Vetan Bhogi Karmchhari Sangathan,
F-1, Tripti Vihar,
Ujjain

...Workman/Union

Versus

Chief General Manager,
State Bank of India,
LHO, Hoshangabad Road,
Bhopal.

...Management

AWARD

Passed on this 5th day of January, 2017

1. As per letter dated 15-12-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/62/2011-IR(B-I). The dispute under reference relates to:

“Whether the demand of the Union, Dainik Vetan Bhogi Karamchari Parishad for payment of wages as paid to permanent peon for the period from 7-10-94 to 31-3-09 to Shri Rajkumar Parosia is legal and justified? To what relief the workman/Union is entitled?”

2. After receiving reference, notices were issued to the parties. Statement of claim is submitted by General Secretary of Daily Wage Employees Union. Case of Ist party is that workman Raj Kumar Parosia was engaged as peon in 2nd party Bank from 7-10-94. He was working 8 hours every day. He completed 240 days continuous service. He was initially paid wages Rs.10 per day. Rates were increased to Rs.15, 20, 35, 40, 80, 115 lastly Rs. 3500 pm. When workman had claimed bonus and regularization in service, payment of revised pay scale, his services were terminated without notice in violation of Section 25-F of ID Act. Workman raised separate dispute challenging termination of his service. That he was working from 7-10-94 to 22-3-2010. He was not paid wages as per 6th to 9th bipartite settlement. The details of the pay scales under the settlement are given in para 4 of the statement of claim. Ist party workman claimed that he is eligible for receiving scale wages. Management did not pay him wages as per bipartite settlement. He claimed difference of wages as per 6th to 9th bipartite settlement. That violation of settlement is punishable under Section 29 of ID Act, it also amounts to unfair labour practice. On such ground, workman prays for difference of wages as per 6th to 9th bipartite settlement.

3. 2nd party Bank filed Written Statement opposing claim of workman. 2nd party raised preliminary objection that workman was not appointed following recruitment rules. His name was not sponsored through Employment Exchange. Workman was engaged purely on daily wages or casual basis for one to two hours in a week. That the workman was engaged maximum 10-12 days in a month. He was free to come on next day. Management was at liberty not to engage him on next day. Workman was not employed in the Bank as regular peon. He was engaged for work of cleaning, sweeping etc. He was paid remuneration from contingency fund of the Bank. Workman not worked more than 240 days during any calendar year. His services were not terminated by the Bank. Only employee appointed on regular basis is entitled to benefit of bipartite settlement. Persons engaged on daily wages depending on exigencies is not entitled to pay scales as per bipartite settlement. It is reiterated that the workman had not worked for 240 days during any of the year. His services were not terminated violating Section 25-F of ID Act. Branch Manager have no control over affairs of workman as he had no occasion to supervise his work. 2nd party submits that claim of workman for difference of wages be rejected.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of the Union, Dainik Vetan Bhogi Karamchari Parishad for payment of wages as paid to permanent peon for the period from 7-10-94 to 31-3-09 to Shri Rajkumar Parosia is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to legality of demand of Union for payment of wages as paid to the permanent peon. Claim of workman is denied by management filing Written Statement. Workman did not adduce evidence. On 10-12-2014, representative of workman submitted he doesnot want to file evidence. Evidence of workman was closed.

6. Management’s witness Shri Tiwari filed affidavit of his evidence supporting contentions in written statement filed by management. That workman was not engaged by the Bank. His engagement was on daily wages as per exigency. Workman was not continuously working from 7-10-94 to 23-3-2010. Workman is not entitled to get regular pay scale/ difference of wages for above said period. Management’s witness in his cross examination says he was not posted at

Amla branch during 1994 to 2010. Amla branch comes under protected area. Security passes are issued for identification and entering in the Bank. Two post of sub staff were sanctioned in the Bank. The peon is paid salary as per bipartite agreement. Workman was paid Rs. 25/- per day. Document about payment to workman are not produced. Management's witness admitted documents Exhibit W-4,5. Workman was doing work of cleaning, sweeping, gardening and hammal. Workman was paid wages as per information available in the Bank. He was not paid wages as per the pay scale. Document Exhibit W-4 prescribed norms for sanction for post, full time part time sweepers. In para-2 the rates of wages payable to part time workers is prescribed. Rs. 80 per day to part time employee working upto 6 hours per week when branch area is less than 1200 sq.ft. 1/3rd scale wages when working hours are 6 to 13 hours per week and branch area above 1200 to 2000 sq.ft. workman has not adduced evidence w.r.t. area of the Bank for his exact working hour in the Bank. Exhibit W-2 admitted by 2nd party intermittent payment of wages made to workman from 18-7-07 to 25-3-09. Union Representative Shri R. Nagwanshi produced copy of Ist bipartite settlement of 1996. Para 20-7 of said settlement deals with part time employees engaged in the Bank. Para 4.5 deals with payment of wages to part time employees on the basis of working hours 3 to 6 hours per week, 6 to 13 hours. Evidence of workman is not cogent how many hours in a week he was working in the Bank. There is no evidence that workman was engaged as part time employee therefore claim of workman for difference of wages as per bipartite settlement 6 to 9 cannot be accepted. Copy of award in R/53/2010 cannot be relied even for persuasion purpose as the workman has not adduced evidence about his weekly working hours and wages paid to him. In said reference, area of the branch was 7000 sq.ft. for reasons discussed above, I record my finding in Point No. 1 in Negative.

7. In the result, award is passed as under:-

- (1) The demand of the Union, Dainik Vetan Bhogi Karamchari Parishad for payment of wages as paid to permanent peon for the period from 7-10-94 to 31-3-09 to Shri Rajkumar Parosia is not legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 690.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 195/01) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-41012/133/1997-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 195/01) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, which was received by the Central Government on 06.03.2017.

[No. L-41012/133/1997-IR (B-1)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/195/01

Shri Watson Masih,
S/o Narbad Masih,
Railway Quarter No. K-14D,
Kudwara, Tehsil Katni,
Jabalpur (MP)

...Workman

Versus

Divisional Railway Manager,
Central Railway,
Jabalpur (MP)

...Management

AWARD

Passed on this 19th day of January 2017

1. As per letter dated 14-12-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/133/1997-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Central Railway, Jabalpur in terminating the services of Shri Watson Masih w.e.f. 14-3-89 is justified? If not, what relief the concerned applicant is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of Ist party workman is that he was working as casual labour under Carriage and Wagon Superintendent, New Katni Junction from 9-5-82 to 13-3-89. That carrier and wagon Superintendent NKJ is under administrative control of 2nd party DRM, Jabalpur. That he was medically examined on 15-3-84 and qualified in Class B-I. consequent to passing his medical examination in class B-I, he was brought on monthly rated pay and awarded temporary status. That he was orally stopped from work on 14-3-87 without assigning any reasons. That he submitted several representations and personally approaches requesting for duty to the General Manager but nothing was done. He was not paid retrenchment compensation. His dues were not settled. His services are terminated without following proper procedure under Railway Discipline Appeal Rules 1968.

3. He raised dispute before ALC, Jabalpur. Failure report was submitted on 23-3-97. Despite failure report submitted to Chief Labour Commissioner, dispute was not referred under Section 10 of ID Act. He filed Writ petition no. 4937/97 in High Court at Jabalpur. On 5-12-97, Hon'ble High Court directed 2nd party to consider failure report within 3 months. The direction by Hon'ble High Court were not followed. Chief Labour Commissioner, Delhi declared not to make reference as per letter dated 8-1-88. Again workman filed Writ Petition No. 1400/98 Hon'ble High Court vide order dated 23-11-01 directed Government to make reference. Ist party workman prays for his reinstatement with full backwages.

4. 2nd party filed Written Statement at Page 12.1 to 12/4 opposing claim of Ist party workman. 2nd party submits that vide letter dated 12-12-1980, Railway Board had imposed ban on recruitment of fresh casual labours. Only in case of extreme emergency obtaining prior permission from General Manager, engagement was permitted. That many persons on the basis of fake labour cards indicating date of employment prior to cut off date 18-12-80 sought employment. Subsequently such fact was detected that fake card holders got employment. Their services were dispensed. Workman is one of them. Ist party workman is holder of fake card got himself screened. However he was not empaneled because of casual labour card in his possession found fake after verification. That during time of screening, he produced record of having worked as casual labour w.e.f. 9-5-82 to 13-3-89 under Carriage and Wagon Superintendent, New Katni Junction on verification found fake. Workman was not engaged as casual labour by Carriage and Wagon Superintendent, New Katni Junction.

5. 2nd party further contends that person who can play mischief in the beginning, what more can be expected in future. That workman was considered screened for purpose of regular employment but on verification, his card found fake, therefore he was not employed. Workman did not take any action since 1989. The dispute is raised after 10 years is liable to be rejected. It is further submitted that on the basis of fake card, workman sought employment and worked in broken period 89 days in 1982, 49 days in 1983, 80 days in 1984 in one spell and 144 days in 2nd spell only. As casual card produced by workman was found fake in verification, the workman was not empanelled. 2nd party requests permission to prove card of workman was fake. It is reiterated that dispute was raised belatedly. On such ground, 2nd party prays reference be answered in its favour.

6. Workman filed rejoinder at Page 13/1 to 13/3 reiterating contentions in statement of claim. He further contends that the pleadings of fake card taken in Written Statement are not sustainable. The services of workman were terminated without enquiry or following principles of natural justice. Hon'ble High Court has condoned delay. The reference is not belated. Action of the management is arbitrary.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Central Railway, Jabalpur in terminating the services of Shri Watson Masih w.e.f. 14-3-89 is justified?	In Negative
(ii) If not, what relief the workman is entitled to?	As per final order.

REASONS

8. The term of reference pertains to legality of termination of services of workman. Ist party workman filed affidavit of his evidence. Workman has stated that he was working as casual labour under Carriage and Wagon Superintendent, New Katni Junction from 9-5-82 to 13-3-89. As per entries in service card No. 54970, he was medically examined on 15-3-84 and was declared fit for class B-I. He was brought on monthly rate of pay and was awarded temporary status. On 14-3-89, his services were arbitrarily stopped without notice or assigning any reasons. He was not paid retrenchment compensation after attaining temporary status, his services could not be terminated without following procedure under Discipline and Appeal Rules 1968 & Article 31 of the Constitution. He has also stated about disputes raised before ALC and filing Writ Petitions. Only after direction by Hon'ble High Court, dispute was referred.

9. In his cross-examination, workman says he passed 10th standard. He was engaged as casual labour. He not submitted any application to the management. From persons in his locality, he got knowledge about engagement of casual labours. From his evidence, casual card Exhibit W-1 is admitted in evidence. Workman in his cross examination says Exhibit W-1 does not bear his signature, he has put his thumb mark on it. He denies that photo on Exhibit W-1 is subsequently affixed. He has denied that earlier photo of some other person was affixed on the card. Workman admits that before issuing casual card, enquiry used to be made. He was unable to tell name who had made enquiry with regard to him. He denies that Exhibit W-1 is forged by him and produced on record.

10. Management filed affidavit of witness of Shri Munnalal Thakur. He has supported contentions in Written Statement that workman had obtained employment producing fake card. In screening card in his possession was found fake therefore his services were dispensed. That workman had not completed 240 days continuous service. Engagement of workman on the basis of fake card was in broken period 89 days in 1982, 49 days in 1983, 80 days in 1984 in one spell and 144 days in 2nd spell. In Written Statement as well as in affidavit of the management's witness, 144 working days of Ist party are admitted. Management's witness in his cross says that casual card produced by Ist party is not in his record. The signature appearing on said casual card appears not of the officer. After looking live register, he said that casual card produced by workman is bogus. Casual card is printed only at Bombay. Sl. Nos used to be printed on cards. No enquiry was conducted about Sl. No. of the card or whether the card produced by workman was printed in the concerned press. Card No. 182678 was issued to workman is not produced on record. Any enquiry was not conducted w.r.t. casual card. Casual card Exhibit W-1 shows entries of period of engagement from 9-6-84 to 30-10-84, 25-11-84 till entry is not clear. Further entries of working period are from 25-1-84 to 23-12-87, 7-6-88 to 31-10-88, 6—89 to 25-1-89, 30-1-89 to 3-3-89.

11. Management has produced substitute casual register. The entry of name of workman is at Sl. No. 7. His card No. 182678 working days 328, he was found serviceable but regularized. In Written Statement and evidence of management's witness, there is clear admission of Ist party workman working for 144 days in 2nd spell supports evidence of workman. After completion of 144 days, he acquired temporary status.

12. Shri H. R. Bharti Advocate submitted judgment by Hon'ble CAT Madras Bench in the matter between

A. Parasuraman versus Union of India and another. The termination of services of casual labourer acquired temporary status without notice or enquiry was held arbitrarily and illegal. Though judgment by CAT has no burden precedent, I agree with the principles held in the matter. When services of workman are terminated without enquiry is arbitrary.

13. Learned counsel for 2nd party Shri Sohane submitted copy of Railway Establishment Manual.

Para 2001(1) defines casual labour refers to labour whose employment is intermittent, sporadic or extends over short periods or continued from one work to another. The conditions applicable to permanent and temporary staff do not apply to casual labour. Clause (b) of Para 2001(1) provides such of those casual labour engaged on open line works, who continue to do the same work for which they were engaged or other work of some time for more than 150 days without break will be treated as temporary i.e. given temporary status on completion of 120 days continuous employment.

Para 2004 provides except where notice is necessary under any statutory obligation, no notice is required for termination of service of casual labour. Their services will be deemed to have been terminated when they absent themselves or on the close of the day.

14. Advocate for 2nd party Shri Sohane relies on judgment in case between

S. M. Asif versus Virender Kumar Bajaj reported in 2016(2)MPLJ-30. Ratio held in the case pertains to Order 12 Rule 6 CP. Judgment on admission not a matter of right. The facts of the case are not comparable. Principles cannot be applied to case at hand.

15. Admission in Written Statement and affidavit of management's witness is Ist party workman had worked 144 days in 2nd spell on admission of facts about working days of workman.

Reliance is also placed by learned counsel for 2nd party on ratio held in case between Telco Convoy Drivers Mazdoor Sangh versus State of Bihar reported in AIR 989-SC-1565. Ratio held in the case is that Government while considering question whether reference should be made or not cannot delve into merits of the dispute and determine the lis itself. Their Lordship held submission of opinion as to whether an industrial dispute exists or is apprehended is not the same thing as to adjudicate the dispute itself on its merits.

Ratio cannot be applied to case at hand. Dispute between parties has been referred by Government only after directions issued by Honble High Court.

16. Mr. Sohane also relies on ratio held in case between-

M. P. Bijali Meter Readers Karmachari Sangh and others versus Stte of Advisory Contract Labour Board and another reported in 206(3)MPLJ-426. Their Lordship held it is sole prerogative of employer to prescribe eligibility criteria and employee not entitled to question it contractual employee has no right to claim permanency or regularization of service after expiry of contract.

Ratio held in the case not relate to the controversy between parties.

17. As Ist party workman had worked more than 144 days in 2nd spell. No enquiry was made about casual card issued to him. Management's witness in his cross examination says that no enquiry was made w.r.t. Sl.No. of the card. No doubt the number on Exhibit W-1 casual card is shown 54970 whereas in substitute casual register, his card number is shown 182678. The entries in register are not proved by valid evidence. Any witness is not examined. As workman has worked for more than 144 days, he acquired temporary status. His services are terminated without enquiry. Termination of services of workman is illegal and arbitrary. For above reasons, I record my finding in Point No.1 in Negative.

18. In view of my finding in Point No.1 termination of services of Ist party is illegal, question remains for consideration whether workman is entitled for reinstatement with backwages. Services of Ist party were terminated in 14th March 1989. The dispute is referred in the year 2001. Management has contented that thereference is highly belated and not tenable. However pleadings and evidence of Ist party after failure report was submitted on 20-3-97 he was required to file Writ Petition 4937/97. 2nd party not complied with direction by Hon'ble High Court. Again he was required to file Writ Petition 1400/98 only after order dated 23-11-01, the dispute has been referred on 14-12-01. The delay in raising dispute cannot be said fatal. The legal position is settled that in case dispute is belatedly raised, the relief can be suitably moulded. In present case after termination of workman on 14-3-89, the dispute is raised in the year 2001 after order by Hon'ble High Court. Consequent to the delay, 2nd party could not be expected to preserve the documents. The workman cannot be allowed backwages. However claim for reinstatement deserve to be allowed. Accordingly I record my finding in Point No. 2.

19. In the result, award is passed as under:-

- (1) The action of the management of Central Railway, Jabalpur in terminating the services of Shri Watson Masih w.e.f. 14-3-89 is not legal and justified.
- (2) 2nd party directed to reinstate workman with continuity of service but without back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 99/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-17012/1/2005-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 99/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 06.03.2017.

[No. L-17012/1/2005-IR (B-1)]

B. S. BISHT, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
No. CGIT/LC/R/99/2005

General Secretary,
Insurance Employees Union,
296, Anoop Nagar,
Indore.

..Workman/Union

Versus

Senior Divisional Manager,
Life Insurance Corporation of India,
Divisional Office, 19, MG Road,
Indore.

...Management

AWARD

Passed on this 2nd day of January 2017

1. As per letter dated 14-9-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-17012/1/2005-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of LIC of India imposing the penalty of removal from services on Smt. Meena Baghel w.e.f. 30-3-03 is just, fair and legal. If not, to what relief she is entitled to and from which date?”

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 6/1 to 6/7. Case of Ist party Union is that Smt. Meena Baghel was appointed on the post of Assistant in office of 2nd party management LIC Divisional office, Indore on 28-3-92. Her appointment was on the post of her caste “Paul” a ST. some unknown persons submitted complaint against her that she had submitted bogus caste certificate for securing said job. Said complaint was sent by Personal department of LIC to Collector Indore. The copy of complaint was sent by personal department to the Disciplinary Authority. Enquiry was entrusted to SDO. In his report SDO had reported that Meena Baghel had earlier shown her caste Dhangad (ST). On the basis of fabricated document, caste certificate was issued. On the basis of report submitted by Sub Divisional Officer, Disciplinary Authority from LIC issued chargesheet under Regulation 39 on 9-12-98. The substance of the chargesheet was prior to her marriage. Smt. Meena had obtained caste certificate submitted bogus document that she belong to Paul/ Dhangad caste. Meena had given reply to the chargesheet denying the charges against her. She had reiterated that she belong to Paul/ Dhangad caste. She had requested documents on which basis the enquiry was conducted by SDO. Smt. Meena contented that he was not supplied documents. Enquiry was not conducted properly. Statement of SDO on complaint was not recorded in Enquiry Proceedings. The charges are not proved. Enquiry is vitiated. She was not given proper opportunity for his defence. Order of removal issued by Disciplinary Authority is illegal. It is prayed that Meena be reinstated in service.

3. 2nd party management filed Written Statement opposing claim of Ist party. 2nd party contends that it is corporation established under LIC Act. 2nd party carries insurance business through different offices including Divisional Office, Gwalior. Vide employment notice dated 7-6-92 by. Sr. Divisional Manager, applications were invited for post of Assistant belonging to ST. that Meena Baghel workman had submitted application for said post enclosing caste certificate issued by Tehsildar Indore. That Meena represented herself belonging to ST and caste certificate was enclosed alongwith her application that she belongs to Dhangad caste. In school certificate issued by head master dated 18-2-98, caste of Ku. Meena was recorded as Paul. Complaint was received from Jamuna Lad in zonal office, Bhopal that Meena obtained employment producing false certificate of her caste. The matter was referred to Collector Indore for deciding correctness of caste certificate issued by Tehsildar Indore. The enquiry was conducted by Divisional officer who written letter to Meena. Enquiry was also made from the concerned school authorities. SDO in his enquiry found that Meena did not belong to ST category. That certificate issued to her as ST- Dhangad was not correct. Copy of report was sent by SDO to Collector, Indore. Said report was forwarded to Divisional manager of LIC. After receiving report from the Collector Indore, chargesheet was issued to Meena Baghel. She denied the charges against her. Her explanation was not found satisfactory. Enquiry was conducted against Meena Baghel. Enquiry Officer submitted his report dated 26-2-01. Notice was issued to Meena on 14-10-02 alongwith the copy of enquiry report. Meena Baghel submitted reply to the report of Enquiry Officer. Considering Enquiry Report, punishment of removal was imposed. Appeal preferred by Meena was dismissed on 2-9-03. Meena submitted memorial to Chairman which was

dismissed on 13-2-04. 2nd party submits that certificate issued by tehsildar in collusion with Meena was incorrect. She did not belong to Dhangad caste. Caste certificate earlier issued is deemed to have been cancelled. The caste certificate issued by Nayak Tehsildar is superseded as per report of SDO. LIC is governed by rules and regulations of LIC Act 1956 approved by Government. 2nd party reiterates that punishment of removal imposed against workman is legal. That this Tribunal has no jurisdiction to decide the matter under reference.

4. As per order dated 4-9-2015, enquiry conducted against workman is found legal.

5. Considering pleadings on record and order on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of removal imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. Point No. 1- As per order dated 4-9-15, enquiry conducted against workman Meena is found legal. Question remains for consideration is whether charges alleged against Meena are proved from evidence in enquiry proceedings. Management has produced documents. Exhibit m-1 is the application submitted by Meena for post of assistant. Her caste is shown Dhangad. The enclosures in Exhibit M-1 shows copy of caste certificate was produced. The report submitted by SDO Indore dated 4-9-97 shows Meena had failed to produce documents about her caste. The information received from Educational and caste of Meena was shown Paul among Dhangad caste. The document secured by Meena that she belong to Dhangad caste was bogus. Chargesheet Exhibit M-2 was issued to Meena Baghel that she had submitted bogus caste certificate as ST for securing post of Assistant. Exhibit M-3 reply given by Meena to the chargesheet. She contented the documents requested by her were not supplied. Enquiry proceedings dated 9-12-98 shows that as per letter received from SDO, caste of Meena Baghel was Dhangad (OBC). Meena had obtained certificate of ST Dhangad caste on basis of fabricated documents. Her caste certificate was not cancelled. In Enquiry proceedings dated 22-2-00, management's representative was directed to collect notifications about the caste. Meena had produced caste certificate issued by Gopikrisihnan MLA that she belong to Dhangad caste. She also produced certificate issued by Primary school Nehru Nagar, Indore. Her caste was shown Paul. The certificate issued by secondary education board was also produced by meena. Document D-1 to 8 were produced by Meena in the Enquiry Proceedings. Certificate issued by Gopikrisihna Meena MLA was not accepted. The certificate issued by school shown Meena belong to Paul caste, Dhangad. Certificate issued by social organization that Meena belong to Dhangad caste was not accepted. I donot find any illegality committed by Enquiry Officer not accepting certificate issued by MLA or social organizations that Meena belong to Dhangad caste. Ist party workman has not adduced any evidence on other issues. The record of enquiry proceedings is proved by management's witness Prem Verma which are marked M-1 to M-11. As certificate issued by school and educational board, caste of Meena is shown Paul whereas Meena had produced application claiming that she belong to ST Dhangad caste. The charges alleged against workman are supported by evidence. The findings of Enquiry Officer cannot be said perverse. Therefore no interference is called for. For above reasons, I record my finding in Point No.1 in Affirmative.

7. Point No. 2- In view of my finding in Point No. 1, charge against Meena Baghel that she obtained certificate of ST Dhangad caste fabricating the documents, punishment of removal is proper. No interference is justified. I record my finding in point No. 2 in Affirmative.

8. In the result, award is passed as under:

- (1) The action of the management of LIC of India imposing the penalty of removal from services on Smt. Meena Baghel w.e.f. 30-3-03 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 44/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-41012/105/99-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workman, which was received by the Central Government on 06.03.2017.

[No. L-41012/105/99-IR (B-1)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/44/2001

Shri Anand Kumar Dubey,
S/o Shri Jeevanlal,
C/o Smt. Anita Dubey, 903, Gole Bazar,
Mohanlal Hargovind das ka Makaaan,
Near Shahid Bhawan,
Jabalpur, MP

...Workman

Versus

Assistant Mechanical Engineer (Power),
Central Railway,
Jabalpur.

Senior Divisional Mechanical Engineer (Power),
Central Railway, Jabalpur.

...Management

AWARD

Passed on this 2nd day of January, 2017

1. As per letter dated 18-1-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/105/99-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Sr. Divisional Mechanical Engineer (Power), Central Railway, Jabalpur MP in terminating the services of Shri Anand Kumar Dubey w.e.f. 12-12-86 is justified? If not, what relief he is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 5/1 to 5/6. Case of workman is that he was initially appointed as casual Khalasi in Locoshed NKJ in November 1978 at age of 19 years. He hold educational qualification Vth standard pass. He worked with devotion. He was regularized as alderman in 1983. He was suspended from duty during 2-7-85 to 17-7-85 for unauthorised absence.

Minor penalty of stoppage of passes for the year 86-87 was imposed against him as per order dated 23-9-85. Said punishment is unjustified and illegal. As per rule, stoppage of passes should be ordered in terms of number of sets and not number of years. Workman further contented that due to some unavoidable family problems, he was suffering from mental and financial stress. He was suffering from illness and physically unfit to perform the duty during the period 22-10-85 to 25-10-85, 28-10-85 to 15-11-85. He had sent leave application for above said period. He had availed leave in anticipation of its sanction. Railway did not sanction his leave. He was not informed about it. It caused prejudice.

3. Workman further submits that chargesheet was issued to him for unauthorized absence of 41 days during the period of 9 months April 85 to November 85. It was covering broken period of his alleged absence. Earlier period of unauthorised absence was also covered for which punishment of stoppage of passes was imposed against him. He denied charges in the enquiry. Enquiry Officer was appointed. Enquiry Officer did not ensure copies of listed documents, statement of witnesses submitted with the chargesheet. Workman reiterates that enquiry was not properly conducted. Enquiry Officer not ensured attendance of his Defence Assistant. He was not supplied documents relied in support of the chargesheet, principles of natural justice were not followed. Enquiry Officer had given oral assurance that he was absent from duty and did not perform any duties. It would be beneficial for him to admit charges seeking mercy and sympathy. It is reiterated that he was not given reasonable opportunity for his defence. Enquiry was first held on 24-9-86 and Enquiry Officer immediately submitted his findings on 30-9-86. That his earlier absence 37 days in 1983, 160 days in 1984, 48 days in 1986, was considered while imposing punishment. Said period was not included in the chargesheet. Punishment of removal imposed against him is illegal. Railway estopped from removing workman from service inflicting punishment of removal dismissal or discharge. On such ground, workman prays for his reinstatement.

4. 2nd party filed Written Statement opposing claim of workman at page 8/1 to 8/5. 2nd party submits that workman was in habit of remaining unauthorisely absent. Minor penalty was imposed against him for obstructing loading in engine. Workman was suspended for the period 2-7-85 to 17-7-85. His suspension was revoked on 17-7-85. Workman was unauthorisely absent from 24-4-85 to 13-11-85. Therefore major penalty of removal was imposed. Punishment is imposed for unauthorized absence for 41 days. Enquiry was conducted. Workman was given opportunity for attending his Defence Assistant did not attend the enquiry despite the enquiry was adjourned 4 times. 2nd party reiterates that workman was given full opportunity, he remained absent unauthorisely punishment of removal is proper. Enquiry was conducted following principles of natural justice.

5. Written Statement was amended requesting permission to prove misconduct if enquiry is found vitiated.

6. Workman filed rejoinder reiterating his contentions in statement of claim.

7. As per order dated 18-7-14, enquiry is found legal. Considering pleadings on record and findings on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

8. Enquiry conducted against workman is found legal as per order dated 8-7-2014, question remains for consideration whether misconduct alleged against workman is proved from evidence in Enquiry proceedings. The record of enquiry is produced. Chargesheet was issued to workman for unauthorized absence of 41 days during the period April 85 to November 85. The particulars of leave of workman is produced at Page 31. It is clear that the chargesheet was issued only for unauthorized absence of 41 days in broken period, its details are given in para 22 of the Enquiry Report. The Enquiry Proceedings dated 24-9-86 at Page 14 shows workman was explained about charges of unauthorized absence of 41 days and asked whether he admits said charge. Workman replied that due to social reasons, he was absent during above said period. That in future, he will take care not to repeat such incident. The authorities showing leniency may impose whatever punishment will be acceptable to him. He has further added he should be given one chance. He has to look after his family and old mother, his father is dead, mother is dependent on him. If he is removed from service, it will be difficult to maintain his family. Workman has admitted his absence from duty and

prayed for leniency. Though in his statement of claim, workman pleaded that he was given promise of lesser punishment for accepting charge, such evidence could not be accepted. Enquiry is found legal. As workman has admitted charge of unauthorized absence, I record my finding in Point No.1 in Affirmative.

9. Point No. 2- In view of my finding in Point No.1 charge for unauthorised absence of 41 days is proved, question remains for consideration is whether the punishment of dismissal imposed against workman is proper. Leave particulars of workman for the period 1-1-84 to 12-12-86 are submitted. The leave period cannot be said unauthorized absence. It is suffice to say that the unauthorised absence of workman was only of 41 days. As details shown at Page 22 of Enquiry Proceedings.

10. Learned counsel for 2nd party Shri A.K. Shashi emphasized that the dispute raised after 15 years of the dismissal is not tenable. In support of his argument, learned counsel relies on ratio held in case between-

Nedungadi Bank Ltd. Versus Madhavankutty and others reported in 2000-I-LLJ-561. Their Lordship dealing with Section 10 of ID Act held purpose of reference of dispute to court/ Tribunal is to keep industrial peace. Power to make reference to achieve above purpose cannot be exercised at any time say after delay of 7 years and there being no industrial dispute existing or apprehended.

In above cited case, the workman was dismissed from service on 11-8-72 for charges of misappropriation. The penalty of dismissal was imposed. His appeal preferred by workman was dismissed on 30-1-73. The dispute is raised in January 1980.

Next reliance is placed by Shri A.K. Shashi on ratio held in case of Assistant Executive Engineer, Karnataka versus shivalinga reported in 2002-I-LLJ-457. Their Lordship dealing with delay of more than 9 years in approaching Labour Officer was upheld.

In case between Assistant Engineer Ghataprabha Right Bank Canal Construction versus Chandrappagol A.G reported in 2004-II-LLJ-460. Their Lordship held the appellant never raised dispute nor made any request to take him back or sought for enforcing any remedy. It was held that for deciding whether a claim is stale or not, the period between the date of termination and date on which conciliation is started has to be taken into account.

In present case, record of enquiry is produced. The dispute was referred after judgment by Hon'ble High Court in LPA. It is indicative that the Writ Petition filed by workman was decided against him. The conciliation proceeding has taken place between parties. When record of enquiry is available, delay in raising the dispute pursuing the remedies before High Court in Writ Petition as LPA cannot be said fatal.

Shri A.K. Shashi also relied on ratio held in case between Indian Iron & Steel Co.Ltd. versus Prahlad Singh reported in 2001(1)SCC-424. Their Lordship held no reasonable explanation given for such delay. In such circumstances, held the Industrial Tribunal rightly refused to grant any relief.

11. Learned counsel for workman Shri P.C. Chandak on the point relies on ratio held in case between—

Sapan Kumar Pandit versus UP State Electricity Board and others reported in 2001(6)SCC-222. Their Lordship dealing with the point held forming opinion as to existence of any industrial dispute relevant factors to be taken into account, subsistence of conciliation proceedings held is one of such factors.

In above cited case, Dy. Labour Commissioner condoned delay and conciliation proceedings were held. Though facts of present case are not comparable, record of enquiry conducted against workman is produced and therefore the delay in raising dispute cannot be said fatal.

Shri P.C. Chandak also relies on ratio held in case between Shahaji versus Executive Engineer, PWD reported in 2005(12)SCC-141. Their Lordship dealing with effect of delay and laches held even if there is delay, Labour Court comes to the conclusion that termination was illegal, it can suitably mould relief to be granted to workman.

While imposing punishment of dismissal for unauthorized absence for short period, length of service of workman was not considered. In my considered view, punishment of dismissal is not justified. Punishment of dismissal deserves to be modified to compulsory retirement. Accordingly I record my finding in Point No. 2.

12. In the result, award is passed as under:-

- (1) The action of the management of Sr. Divisional Mechanical Engineer (Power), Central Railway, Jabalpur, MP in terminating the services of Shri Anand Kumar Dubey w.e.f. 12-12-86 is not proper and legal.
- (2) Punishment of dismissal imposed on workman is modified to compulsory retirement.
- (3) Management 2nd party is directed to allow all retiral benefits as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 6 मार्च, 2017

का.आ. 693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 11/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.03.2017 को प्राप्त हुआ था।

[सं. एल-41012/122/2004-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 6th March, 2017

S.O. 693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of West Central Railway and their workman, which was received by the Central Government on 06.03.2017.

[No. L-41012/122/2004-IR (B-1)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****No. CGIT/LC/R/11/2005**

Shri Ramcharan,
S/o Shri Katahur,
Village Hardi, Post Jhal,
Tehsil Manpur,
Distt. Umaria (MP)

...Workman

Versus

Divisional Railway Manager,
West Central Railway,
Jabalpur.

...Management

AWARDPassed on this 16th day of January 2017

1. As per letter dated 12-1-2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/122/2004-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Divisional Railway Manager, West Central Railway, Jabalpur (MP) in terminating the services of Shri Ramcharan S/o Katahur, Ex-MRXL while retaining in service from 3-8-79 to 16-6-89 and not regularizing him from services and terminating him w.e.f. 13-6-89 is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to parties. Ist party workman submitted statement of claim at Page 4/2 to 4/4. Case of Ist party workman is that he was working as MRCL of 2nd party. He entered service on 3-8-79 & worked till 12-6-89 for 10 years. Workman submits that after completion of 10 years service, he acquired temporary status. His medical examination was carried. He was working as MRCL employee, his services were terminated on 30-6-89 without issuing showcause notice or giving any opportunity to him. That termination of his service is illegal.

3. In July 2003, recruitment of old card holder employees was undertaken by 2nd party management. Workman was not reinstated in said recruitment process. 350 old card holders were taken in service. Ist party workman further submits after his acquiring temporary status, his services are covered by Discipline and Appeal Rules of the Railway.

Without following discipline and appeal rules, his services cannot be terminated. The act of management is inappropriate. Workman should have been regularized in service. It is further submitted that in 2003, applicant had filed application. He approached ALC on 25-5-04. After failure report submitted to Ministry, dispute has been referred. That Ist party workman is class IV employees that presently he is unemployed. He has no source of income. He prays for his reinstatement/ regularization in service.

4. 2nd party filed Written Statement at Page 6/1 to 6/8 opposing claim of workman. 2nd party raised preliminary objection that terms of reference are incorrect. The order of reference is highly prejudicial to the management. The dispute is beyond jurisdiction. The Government made reference of disputed facts for adjudication. Appropriate Government wrongly held claimant was in employment during 31-8-79 to 12-6-89. The disputed questions could not be decided by Government. The dispute is raised in the year 2005 after lapse of 16 years is not tenable. 2nd party has relied ratio held in various cases on point that belated reference is not tenable.

5. 2nd party further submits that Ist party was engaged as casual labour. Attendance was 6 days during the period 29-4-80 to 31-5-88. 6 ½ days during 28-5-88 to 3-6-88, 30 days during 4-6-88 to 3-7-88. Workman stopped coming for job. Workman has not worked for 240 days in any calendar year. Workman has not qualified to become MRCL. Workman has no right to claim regular employment. Workman was not engaged as per laid down procedure for engagement of casual labours. That appointments in Railway is governed by rule and regulations. Railway has to follow procedure prescribed for appointment. Only such persons are entitled to regular employment. Management has to follow reservation policy under the constitution. It is mandatory to comply reservation for SC/ST OBC, Handicapped and ex-servicemen. The persons who are engaged for stop-gap arrangement are not entitled to be appointed. 2nd party relied on ratio held in various cases contending that daily wagger has no right to hold post. Foundation for engagement on daily wagers indicates subject to availability of work. That working continuously cannot to allowed to over reach the law.

6. On facts, 2nd party submits that Ist party was engaged for few days as casual labour but it is denied that Ist party was working during the period 3-8-79 to 12-6-89. The services of Ist party were terminated as he stopped coming for the job after 3-7-88. Ist party is not entitled for reinstatement in service. He had not obtained temporary status. 2nd party admits that the dispute was raised in the year 2004. Rest adverse contentions have been denied. 2nd party prays reference be answered in its favour.

7. Ist party filed rejoinder reiterating his contentions in statement of claim that he completed 10 years service and gained temporary status. Termination of his service be set-aside and his claim for reinstatement be allowed.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the dispute raised by Ist party is highly belated and whether reference is tenable?	Dispute raised belatedly after 15 years is not tenable.
(ii) Whether the action of the management of Divisional Railway Manager, West Central Railway, Jabalpur (MP) in terminating the services of Shri Ramcharan S/o Katahur, Ex-MRXL while retaining in service from 3-8-79 to 16-6-89 and not regularizing him from services and terminating him w.e.f. 13-6-89 is legal and justified?	In Affirmative
(iii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

9. Ist party workman filed affidavit of his evidence. Workman has stated that he worked with department of 2nd party from 3-8-79 to 12-6-89. His services were arbitrarily terminated on 13-6-89. In July 2003, 350 card holders were appointed. In his cross examination, workman says in 1989, some persons were taken in service. He raised dispute before ALC in 2004.

10. Counsel for workman remained absence and failed to advance any argument.

11. Learned counsel for 2nd party Shri A.K. Shashi relies on ratio held in

Writ Petition No. 6232 of 2014 by Bombay High Court, Bench Nagpur. The ratio held in case of Nedungadi Bank Ltd versus K.P. Madhavankutty was relied. Considering the workman was dismissed from services on 15-7-91, workman approached conciliation officer after lapse of 20 years in the year 2012 without explaining the delay.

In case between Nedungadi Bank Ltd versus K.P. Madhavankutty and others reported in 2000-I-LLJ-561, their Lordship considering delay of 7 years held no industrial dispute existed or apprehended .

In case between Chandrappagol A.G versus Assistant Executive Engineer, Ghataprabha Right Bank Canal Construction, Belgaum District reported in 2004-II-LLJ-457. Their Lordship considering delay more than 9 years in approaching Labour Officer held in cases of serious dispute as to relationship of employer employee, record of employer would come in the way of maintenance of employers record. The delay was held fatal to the case.

In present case, workman was terminated in 1989. The dispute is raised in 2004 after lapse of 15 years. The dispute under reference has become stale. The reference is not tenable. For above reasons, I record my finding in Point No.1 that reference is not tenable.

12. Point No. 2- The term of reference pertains to denial of regulation and legality of termination of services of workman. Affidavit of evidence is filed by workman. He stated that he worked from 3-8-79 to 12-6-89. On completion of 10 year service, he gained temporary status. After gaining MRCL status, his services were arbitrarily terminated on 13-6-89. In 2003, 350 card holders were taken in service. In his cross, Ist party workman says he was appointed as MRCL. He was appointed in 1984. Appointment order was not received by him. He not received order about granting temporary status. Written order of termination was not issued to him. He admits that first time, he was appointed on 29-4-99. He denies that he worked only 42 ½ days during 29-4-88 to 3-7-88. Ist party admits that he was paid wages for his working days. His name was not sponsored through Employment Exchange. The post was not advertised. Copy of casual card is produced, no valid evidence is adduced to prove said document. Even if the entries in zerox copy of casual card are considered, workman has not completed 240 days continuous service preceding 12 months of termination of his service in 1989.

13. Management filed affidavit of evidence of Shri M.C. Mehra supporting contentions in Written Statement. That the witness of management was working as PWI, Beohari during 1986 to 1990. Working days of Ist party are shown 21 days and 48 days during April 88 to July 88. From evidence of management's witness, documents Exhibit M-1 is admitted in evidence. Management's witness in his cross says Ist party workman was working as Gangman under him in 1988. During 1979 to 1989, Ist party was working at Jhansi and Jabalpur division. Workman had not worked 240 days during any calendar year. Workman was not paid retrenchment compensation. Exhibit M-1 register of thump impression show Ist party working during the period April 88 to 18-5-88, May 88 to November 88. Exhibit M-1 does not show Ist party workman was continuously working for more than 240 days during the year 88 to 89. The burden lies on workman to prove 240 days working preceding 12 months of his termination. Workman has failed to establish 240 days working preceding termination. Therefore workman is not entitled to protection of Section 25-F of ID Act. Evidence is not sufficient to establish his services is illegally terminated. For above reasons, I record my finding in Point No. 2 in Affirmative.

14. In the result, award is passed as under:—

- (1) The action of the management of Divisional Railway Manager, West Central Railway, Jabalpur (MP) in terminating the services of Shri Ramcharan S/o Katahur, Ex-MRXL while retaining in service from 3-8-79 to 16-6-89 and not regularizing him from services and terminating him w.e.f. 13-6-89 is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer